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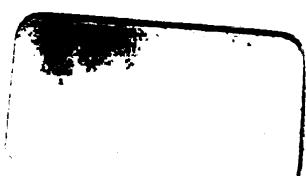
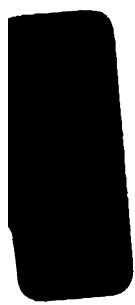
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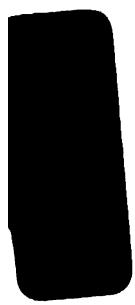
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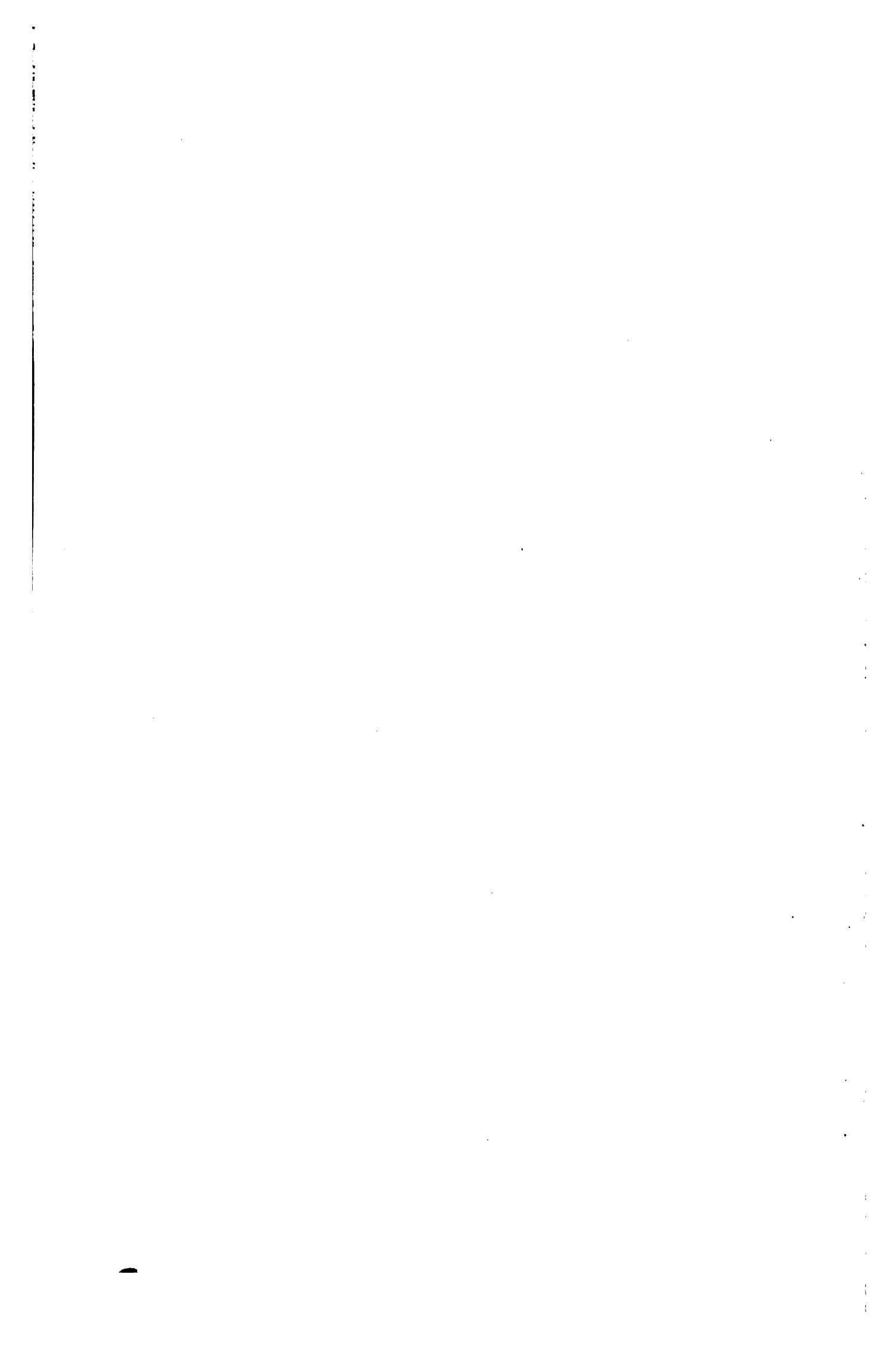
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THE  
A C T S  
OF  
S E D E R U N T  
OF  
THE LORDS OF COUNCIL AND SESSION;

FROM THE  
INSTITUTION OF THE COLLEGE OF JUSTICE,

*IN MAY 1582, TO JANUARY 1553.*

TAKEN FROM THE RECORDS OF THE COURT, IN HIS MAJESTY'S GENERAL  
REGISTER-HOUSE.

TO WHICH ARE ADDED,  
SOME OF THE ACTS MADE AT AFTER PERIODS, THE RECORDS OF  
WHICH ARE LOST.

TAKEN FROM OLD MANUSCRIPTS.

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PUBLISHED BY AUTHORITY OF THE COURT OF SESSION,  
AND OF THE  
LATE COMMISSIONERS FOR INQUIRING INTO THE ADMINISTRATION OF JUSTICE  
IN SCOTLAND,

UNDER THE DIRECTION OF  
THE PRESIDING MEMBER OF THE COMMISSION IN SCOTLAND.

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EDINBURGH:  
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1811.

*Mundell, Doig, and Stevenson.  
Printers.*

# PREFACE.

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THE Acts of Sederunt of the Court of Session have never yet been brought together in one complete or uniform publication.

LORD STAIR prefixed to his Decisions the Acts of Sederunt, beginning 5th June 1661, and ending 22d February 1681. Those from February 1681 to July 1696 were subjoined to Gilmour and Falconer's Decisions, published in 1701; and subjoined to Bayne's edition of Hope's Minor Practics, we have an alphabetical Index of the above and subsequent Acts, from June 1661 to January 1726. Some of the Acts, at different periods, are also to be found in Spottiswood's Practics, and Forbes's Journal.

IN 1740, a volume of the Acts of Sederunt was published, under the authority of the Court, by Fleeming and Hamilton, beginning 19th November 1628, and ending 28th July 1739. Another volume was published by Mr. Hamilton in 1753, beginning 15th December 1739, and ending 7th August 1753; to which an addition was af-

terwards made, entitled, Vol. II, Part II, of the Acts of Sederunt, from November 1753 to 29th June 1762.

THE late Mr. Alexander Tait, Clerk of Session, had been at pains, while in office, to make a collection of the Acts of Sederunt from an earlier period, and a very copious and useful index or abridgment of them. The work was not finished till after his death; but his son, Mr. William Tait, advocate, a gentleman of great professional ability, now also deceased, took the trouble of revising and adding to his father's compilation; and it is known that he had the advantage of being assisted and advised in that undertaking by an eminent judge and antiquarian, the late Sir David Dalrymple, Lord Hailes. The work, thus prepared, was published in 1790; and the period of time comprehended in it, is said, in the title-page, to be from 15th January 1553, to 11th July 1790; from which last date there have been several printed continuations of the Acts of Sederunt, by authority of the Court, down to the present time.

But Mr. Tait's work, although extremely useful, is defective, in so far as it omits the Acts of the first twenty-one years after the establishment of the Court, and likewise those of some intermediate periods; while, at the same time, it goes beyond the professed object of the publication, by inserting many entries which are not properly Acts of Sederunt of the Court, though appearing in the sederunt-books.

THE reason assigned in the preface for these omissions was the supposed loss of some of the sederunt-

books. But upon a more thorough inquiry, it has been discovered that the record of the Court during the first twenty-one years, from May 1532 to January 1552, is extant.

ORIGINALLY, the clerks of Court kept only one book of record for all entries, whether of the ordinary proceedings of the Court, Acts of Sederunt, or judicial acts and decrees. This continued to be the case till the books came to be separated, in 1553. The first record, therefore, is not missing, but remains in the General Register-House, being the same which then contained the acts and decrees, as well as the other proceedings of the Court, and, *inter alia*, the minutes of its earliest meetings, in May 1532, and downward. The defects at after periods cannot be so well supplied, as some of the books are still wanting. Yet this may, in part, be done, by having recourse to manuscripts, preserved in the Advocate's Library, and other such documents; keeping it always in view, that these cannot be relied on as completely authentic.

By the act, establishing the College of Justice, the real date of which was 17th May 1532 (not 1537, as erroneously supposed in the common editions of the acts of Parliament), a power was given to the King to make rules and statutes for ordering of the Court, which power his Majesty delegated to the Chancellor, President, and other Lords of Session; and, accordingly, the first Acts of Sederunt of the Court were those made upon that occasion, which were ratified by the King 10th June 1532, and by Parliament 1540, c. 93, whereby they became, in effect, acts of Parliament, and as such are published

in all the editions of the Scots statutes. The act 1540 contains a general power to the Court to make such other "acts, statutes, and ordinances as they shall "think expedient for ordering of process, and hasty ex- "pedition of justice."

IN virtue of this power, many subsequent acts were passed by the Court, and entered in the books of sede- runt; and they have now become very numerous, hav- ing been gradually accumulating during the course of near three centuries.

MR. TAIT's publication having, from the circum- stances already noticed, been incomplete, it has now been thought necessary to supply, as far as possible, that defect; and an authority to this purpose was given by the Commissioners lately appointed for inquiring into the administration of justice in Scotland.

IN selecting and collating the acts and entries of the first twenty-one years, from the authentic books lately found in the Register-house, various circumstances con- curred in rendering the task extremely difficult; but, with the able assistance of Mr. Thomson, the Deputy Clerk-Register, and some of the officers acting un- der him, it has been accomplished. What are now called *books*, appear, in many instances, to have been ori- ginally in the shape of loose and detached sheets, which the officers who had the custody of them afterwards joined together, and formed into volumes, consisting generally of the entries and minutes of several years, collected into one book; but this they did in so care- less and reprehensible a manner, that the different folios

were often misplaced, in point both of date and matter, so as to contain proceedings of the Privy Council, and others of a general nature, intermixed with those of the Session, and to make a very confused and almost unintelligible mass of the whole. It is to be observed, that the records of all proceedings in the Scots Parliament, whether legislative or judicial (which last were very numerous), as well as those of the King's Council, and of the different superior courts, instituted from time to time for the administration of justice, such as the Old Session, instituted by James II of Scotland ; the Daily Council, by James IV ; and, lastly, the College of Justice, by James V, now commonly known by the name of the Court of Session, were all kept by the same clerks, viz. the Lord-Clerk-Register and his deputies ; and that the Chancellor of Scotland presided in all of these different assemblies and courts. Hence the proceedings held in them, and the entries made in their books, were often mixed and blended together in such a manner, that it became afterwards extremely difficult to distinguish them, especially as the denomination of Lords of *Council* was given promiscuously, in many instances, to the members of the King's Council, and to the Judges of the Supreme Court, or “Lords of Council and Session.”

SOME of the books, too, have been much worn, and defaced by time ; and as the sheets or pages are, in general, without any number affixed to them, the labour has been thereby much increased. All these defects Mr. Thomson has been extremely industrious in remedying, as appears from his first and second Annual Reports,

for which the public is certainly much obliged to him, and to the commissioners under whom he acts.

IN attending to the dates of the older *Acts of Sederunt*, it is to be kept in view that the legal year then commenced on 25th March, and that this continued to be the case till it was altered in Scotland by an act of the Privy Council, 17th December 1599. The new calendar was afterwards more completely fixed by the British statute, 24th Geo. II, cap. 23.

IT has already been observed, that Mr. Tait's volume contains many entries which are not, strictly speaking, *Acts of Sederunt*, but proceedings of various other kinds, some of them very little connected with the Court of Session. The books of Session, as a record, contain a great many entries which very much illustrate the history of Scotland from the beginning of the reign of James V downward. The Privy Council records do the same; and a full publication of them must be left to those who superintend the general records, who, it is to be hoped, will proceed in the very useful work which it is believed they have already begun. In the meantime, it has been thought right, that, in making the present supplementary collection, the plan of Mr. Tait's volume should, in a great measure, be followed, by exhibiting not only *Acts of Sederunt*, in the proper sense, but other entries, which seemed any way connected with the proceedings of the Court; leaving out, however, such matters of historical information as have nothing to do with the Court or its proceedings.

THE first article in Mr. Tait's book, concerning the appointment of guardians to Queen Mary, must have been a Privy Council proceeding, being in name of the "Lords of Secret Council." Many of the subsequent articles, however, which are in the name of the "Lords of Council," are evidently proceedings of the "Lords of Council and Session," or, in other words, the Court of Session.

THE second and third articles are mere judicial determinations in particular causes, and not Acts of Sederunt; and of this there are many other examples, the books of sederunt having been used as a journal of proceedings, as well as for other purposes.

THE fourth article, 11th May 1553, relates to a general regulation; and the words "Lords of Council" in the preamble of it, can mean no other than the Lords of Council and Session. The same thing is to be said of the article, 17th March 1560, and many others.

THESE books were also used, in numberless instances, as a public registry, in which acts of state, letters and declarations from the King or his ministers, proclamations by the King, and proceedings of various kinds, with which the Court of Session had no connection as a court, were recorded. One extraordinary instance of this kind appears in an entry, dated 11th June 1594, concerning a supposed treaty of alliance between one of the Kings of Scotland and the Emperor Charlemagne, which never ought to have been inserted, either in the books of Session, or any other register; as it has been sufficiently

proved by Sir David Dalrymple, in his Remarks, and more lately by Mr. Chalmers, in his Caledonia (vol. I, p. 298), that no such treaty ever existed.

UPON many occasions, too, the Judges of the Court of Session acted as advisers of magistracy in matters of police, such as imposing stents or assessments for particular purposes, within the city of Edinburgh, notwithstanding their privilege to be free of such burdens; likewise fixing the assize of bread, and other matters relative to the internal government of the city; and the practice was, for the Magistrates and Town-council of Edinburgh, in their robes, to wait annually upon the court, and occasionally at other times, upon the business of the city. See the entries, 29th July 1637, 29th January 1687, 6th July 1692, 4th August, same year, and many others.

THEY were even called upon occasionally to give advice, in point of law, to his Majesty's Privy Council and Ministers of State, 22d December 1683; and their daily attendance was required in the Parliament of Scotland, where they had a particular place assigned to them.

FROM the intimate connection which, in this manner, subsisted between the legislative and executive powers of the state, and the Court of Session as the supreme civil court of law, from the first establishment of the College of Justice to the Union with England in 1707, it naturally arose, that in making Acts of Sederunt, the Judges

did not always confine themselves to the strict and literal performance of their duty, in regulating matters of mere form, or enacting rules of court; but sometimes took it upon them to *declare* what was law, and what they were to follow as such in their decisions, and even, in a few instances, to make new rules, which touched upon the existing law of the country. Sir George M'Kenzie, in his **Commentary upon the act of Parliament 1621, cap. 18,** which was the first of our bankrupt statutes, endeavours to justify the former, by saying that they did not mean to introduce new law without the authority of Parliament, but only to explain what they conceived to be law, and which they might have followed as such in their decisions, without any general declarator. But as he admits that they had no legislative power, the only thing that can be said for their assuming it, in a few instances, by enacting rules different from those of the common or statute law, in matters of right, is, that either the Legislature acquiesced in and adopted such rules, by passing them into acts of Parliament, as was done in the cases of the act 1579, c. 75, the act 1584, c. 139, the act 1587, c. 42; and likewise in the instance already mentioned, of the act 1621, which recites *verbatim*, and ratifies, the **Act of Sederunt** previously made; or that, if any such act was passed by them, without being ratified in Parliament, it ceased, *eo ipso*, to have effect, as happened in the case of an **Act of Sederunt** concerning poindings and arrests, 10th August 1754, which no doubt materially affected the common law in competitions of creditors; but, probably on that very account, the act having been past only for four years, and not being ratified in Parliament, was allowed to expire, without being continued or re-

newed. The same had been the case in a former attempt to establish regulations concerning bankruptcy, by an Act of Sederunt, 29th July 1735.

THE Act of Sederunt, 14th December 1756, concerning removings, has sometimes been objected to, as exceeding the powers of the Court; but to this it has always been answered, that it was of a declaratory nature, not meant for the purpose of introducing new law, but only to declare and fix the order of proceeding in cases of removing, agreeably to former decisions and precedents, particularly a decision as far back as Lord Durie's time, 27th February 1627, Lawson. Besides, we know that the law, as laid down or explained by this Act of Sederunt, has been found, by experience, to be highly useful and salutary in its effects; and as such it is now universally acquiesced in.

AN Act of Sederunt, made as far back as 28th February 1662, intituled "Act anent executors creditors," may be considered as of a similar nature; because, although it lays down some new rules of proceeding, it was, in reality, founded upon a principle of common law, viz. That an executor is a trustee for all having interest; and, therefore, ought not to proceed hastily or partially in distributing the effects, but give a reasonable time for creditors to appear, and make their claims.

It may be observed, too, that some of the entries in Mr. Tait's book are truly acts of Parliament, which were only *recorded* in the books of Session, for particular rea-

sons therein expressed, such as the act 13th June 1661, “ anent judicial proceedings under the usurpers;” to which last is annexed, an explanation of the Court relative thereto.

In various instances, the Court made declaratory acts, connected with the decision of particular causes, in order that the rule of decision might be better known, and followed as a precedent in time coming. Thus, in Mr. Tait's volume, p. 19, we have an entry in these words: “ 27th November 1592. The quhilk day the Lordis declare, that in all tyme cumming, they will judge and decide upon clausis irritant conteint in contractis, takis, infestmentis, bandis, and obligationis, precise according to the wordis and meining of the said clausis irritant, and after the forme and tenor thairof; lykeas thay presentlie decyded the actioun of reduction per seuit be John Peblis, burges of Peblis, againis David Robeson, couper thair, for reductioun of ane contract berand renunciatioun of ane liferent for payment of the soume of 100 merkis, viz. 40 lib. betwix and Whitsunday nixt after the dait of the contract, quhilk is daited penultimo Martij 1587 yeiris, and 40 markis in compleit payment of the said soume at Yule nixt thairafter; and if it happens the dayis of payment not to be kepit, the said contract to be null, and to expire in itself; notwithstanding the defender allegit that he had maid sufficient offer of the said haill soumes content in the said contract before the feist of Yuill, which is the last terme of payment; the Lords repellit the foresaid allegiance, in respect the defendant

" falzierd in payment of the 40 lib. at the first term ap-  
" pointit thereto be the forsaid contract."

OTHER cases of the same kind are to be found, both in the Acts of Sederunt, and in the books of decisions.\* Thus, " In a competition for the rents of a house within burgh betwixt two real creditors, this nullity being objected, that in the resignation made in the magistrates hands, the symbols were earth and stone; whereas their fixed and known symbols are staff and baton; the Lords having tried at the Town-clerk's office, and finding there were many in the same condition, did sustain the sasine and resignation, and repelled the nullity; but resolved to make an Act of Sederunt, discharging that practice in time coming, under the pain of nullity in all competitions with other creditors, more formally infest. Fountainhall, 7th February 1708; Young." See also Acts of Sederunt, 17th July 1741, concerning the defect of not counting the leaves in sasines by notaries; and 17th January 1756, touching instruments of sasine, &c.

WE also find some instances of such general declarations of law, without seeming to arise out of any particular cause then before the Court. But it is plain, that there must have been some proceeding which gave occasion to them, although not entered upon the record of the Court, and the circumstances of which cannot now be traced. Cases of this kind are to be found in Spottis-

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\* Dict. vol. i, p. 203.

wood's Practices, p. 24, 34, 190, 359. As to all which, it is to be observed, that the books of Sederunt, during the periods alluded to by him, are lost.

ACCORDING to the ideas of those days, it was, no doubt, thought consistent both with the duty and the powers of the Supreme Court, to issue such general declarations of law or practice, especially when law and practice stood in opposition to each other, that all men might be put on their guard not to transgress the law in time coming, whatever might be the decision as to past transactions, founded upon *consuetude*, or *communis error*. In the infancy of law, or of the jurisdictions of any country, this may be attended with advantage; and in Scotland we do not find that it was ever made the subject of complaint or observation from any quarter; though, after the law of a country becomes more fixed, it must of course be less necessary, to exercise more than ordinary powers; and, accordingly, for many years past, the Judges of the Court of Session have confined themselves to the province which certainly belongs to them, of applying the law, without either declaring or amending it, except in mere matters of form, or of dues of Court, agreeably to the powers expressly founded in their constitution; as may be seen both from their decisions and Acts of Sederunt in later times. All this is ably explained in a late Report by the Judges of the Court of Session to the House of Lords, which is to be found in the volume of Acts of Sederunt last published, 27th February 1810. The only thing contained in that Report, which may, perhaps, be thought questionable,

and is, indeed, stated as such in the Report itself, is what it bears concerning acts of Parliament going into desuetude. The distinctions laid down by Mr. Erskine, in his Institute, upon that subject, appear to be sufficiently correct.

NONE of the Judges of the present day can, with justice or truth, be charged with an intention of deviating from the strict line of their official duty; and if their predecessors in office went further a century or two ago, this, like any other historical fact, must be imputed to the circumstances of the times, or to causes for which no man now living is answerable.

It will here naturally occur, that those who make this charge against the Judges of the Court of Session, of having gone beyond their province, in laying down general rules of law, by declaratory acts of Sederunt and judgments of the Court, ought not also to impute to them the opposite fault of proceeding without any rules at all, upon some supposed arbitrary and undefined power of exercising what is called a *nobile officium*, and consequently of not adhering to any settled rules of law or justice. This would be a very bad system indeed, were it truly applicable to the proceedings of the Court of Session in matters of judgment. But nothing can be more idle or groundless than the assertion. It is contradicted by every line of their Acts of Sederunt and decisions; and, above all, by that wise, comprehensive, and well-combined system of municipal law, which has been matured, and in a great measure formed, under their administration of justice, corrected, no doubt, and im-

proved occasionally, by the judgments of the House of Lords, on appeal.

THE mistake of supposing, as some have done, that the Court of Session, in the exercise of its ordinary jurisdiction, does or can proceed upon an undefined *nobile officium*, without any settled rules of law, has arisen from a very trivial circumstance. Our old lawyers, and, among others, Lord Stair, were led, by their professional acquaintance with the civil law of the Romans, to assimilate what was termed the *nobile officium* of the Roman prætor to the office of modern courts of equity, in modifying exorbitant penalties, and performing some other acts of a similar nature, which are founded in the sovereign jurisdiction of every supreme court.

The term *nobile officium* may also, without impropriety, be used in speaking of mere ministerial acts, or matters of voluntary jurisdiction, where there is no adverse party, such as the appointment of a tutor *ad litem*, or of a factor *loco tutoris* or *absentis*, to attend to the interest of infants or absent persons, till more regular powers can be obtained, or of the nomination of an interim-officer to do some immediate duty till a permanent commission can be had from the King, or other proper authority. If this be any encroachment at all, it is upon the *executive*, not the legislative, power of the state. It has, in particular circumstances, been uniformly exercised, upon the principle of necessity, by the supreme civil court of Scotland, in order to provide for cases of immediate exigency, especially since the seat of government was removed to a distance. But in matters of contentious jurisdic-

diction, or in questions of right between man and man, no such power ever was claimed or exercised, so far as known, by the Court of Session.

The Judges of the Court of Session, in their decisions, whether as a court of law or a court of equity, have uniformly gone, or meant to go, upon fixed and permanent rules, applying equally to all similar cases, or, in other words, upon systematical principles, to the best of their knowledge, and not upon loose and arbitrary notions either of law or equity, as applicable to a particular case. The principles upon which, as a court of equity, they act, are the same with those laid down by Judge Blackstone, in his excellent chapter upon the subject of Equitable Jurisdiction, vol. iii, p. 429, &c. They have been in use to modify exorbitant penalties in bonds and contracts; to restrict apprisings and adjudications, so as not to admit unconscionable or usurious advantages to take place in questions between debtor and creditor; to suspend or reduce their own decrees, where substantial reasons of nullity occurred, but not as a matter of course, or upon trifling informalities; to examine parties and witnesses *ex officio*; and to allow proofs before answer to relevancy, where the circumstances required it. These Lord Stair imputes to the prætorian power, or, as he calls it, the *nobile officium* of the Court. But, it is believed, they are the same in substance and effect with the powers of the Court of Chancery in England; and there would certainly be a great defect in the jurisdictions of any country where such powers could be exercised by no court or judge whatever.

If vague notions were, in the earlier periods of our law, entertained in Scotland, with regard to the powers of a court of equity, in mitigating the severity of strict law, we see plainly, from Sir William Blackstone's Introduction, section 2, that the same was the case in England; though afterwards the systems of law in both countries became more settled and complete.

In some instances, when important changes of the law were in contemplation, orders were directed by Parliament itself, to the Court of Session, to make previous inquiry, and to report to the King, or to Parliament. A noted example of this is to be found in the Acts of Sederunt 1746, 1747, and 1748, respecting the *heritable jurisdictions*, the whole of which business was conducted by the Court of Session, under directions from the Legislature, which resulted in the act of Parliament, 20th Geo. II, cap. 43, "for abolishing the heritable jurisdictions, and making satisfaction to the proprietors thereof," &c. Many articles relative thereto are to be found in the Acts of Sederunt of the years already mentioned.

In like manner, a good deal of the business of the act, 20th Geo. II, cap. 50, for abolishing ward-holdings, was done in the Court of Session, under the direction of Parliament; see 8th February 1749. This was a memorable era for Scotland; and the two statutes alluded to form a valuable branch of what may be called the Magna Charta of this country.

A BUSINESS almost equally important had been done by the Court of Session in the year 1740, in consequence

of an order of the House of Lords, dated 12th June 1739, respecting the peerages of Scotland, lists and statements of which were most carefully made up, and transmitted to Parliament, with a report from the Court upon the subject. See the entries in Mr. Tait's book, 5th April and 3d June 1740. These have been since found to be of the greatest use, in fixing the situation and rights of the nobility of Scotland.

AND here it may be proper to observe, that we find, in the work of a most enlightened and respectable author,\* a charge made against the Court, for having interfered in determining questions of precedence and rights of peerage; the former of which, it is said, belonged to the jurisdiction of the Lord Lyon, and the other fell under the exclusive privilege of the House of Lords. The examples given, are the dispute of precedence between the Earls of Sutherland and Crawford, and the questions of peerage in the cases of Lord Oliphant and Lord Lovat. The same observation appears to have been copied by another modern author;† and made the ground of no small abuse against the Supreme Court.

BUT the whole of this animadversion has, with submission, proceeded upon misinformation in point of fact, owing to the confused and imperfect state of the records at that time; an evil which has now happily, in a great measure, been removed. Questions of prece-

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\* Law Tracts, Edit. 1758, p. 319.

† Dr. Gilbert Stewart on the Public Law and Constitution of Scotland, p. 268.

deney never could, with any effect, have been decided by the Lord Lyon. The nature of his office, and the extent of his jurisdiction, were defined by the statutes 1587, cap. 46; 1592, cap. 127; 1672, cap. 21; but questions of precedence are not there mentioned as belonging to him.

In such cases, the regular mode of proceeding is, by application to the King himself, as the fountain of honour, and the King may remit the case, to be tried by such persons, or in such Court, as his Majesty thinks proper to appoint. Sir George M'Kenzie, in his Title of Precedency, p. 542, vol. ii, of the folio edition of his works, informs us, that in 1606, King James VI granted commission to certain noblemen to settle precedence, and that they pronounced a decree of ranking accordingly.

THE question between the Earls of Sutherland and Crawford, originated near the end of the century before the last, by a petition to the King and Parliament, which was *referred to the Court of Session*, that the Earl of Sutherland's claim might be there tried. See table of unprinted acts subjoined to the printed statutes in 1693, in consequence of which there were some proceedings in that and the years 1694 and 1695. The process was afterwards revived in 1704. Printed informations were put in to the Court; and an interlocutor having been pronounced on the 23d January 1706, mutual reclaiming petitions were offered. The cause never went farther, probably owing to a doubt whether the Court could proceed, *after the Union*, without a new remit from

the King. All these papers were reprinted on occasion of the contest which afterwards ensued between the present Countess of Sutherland and Sir Robert Gordon, in 1771.

IT is scarcely necessary to add, that by a letter from King Charles II to the Earl of Roxburgh, inserted in Mr. Tait's edition, 4th July 1679, it seems to have been *then* understood, that questions of precedence might be tried before the Court of Session. This, it is believed, would not now take place, without a special remit to that effect.

As to the cases of peerage, referred to by the authors above mentioned, it is to be observed, that claims of peerage, or to the succession of honours in Scotland, were often founded on feudal grants, by charter and sasine, passing lands and honours together; and hence it was understood, as a matter of course, that the construction of such grants, when any dispute arose about them, was to be determined in the Supreme Court of law. This matter was fully explained to the House of Lords in 1740, as a part of the report then made by the Court of Session, and particularly in a passage, which we shall here insert entire, from Mr. Tait's edition, p. 347 and 348, as it throws much light upon the subject.

“ FIRST, then, they take the liberty to remark, that “ they cannot discover in the records any patent of ho-  
“ nour creating a peerage, earlier than the reign of  
“ King James VI. Before that time, titles of honour  
“ and dignity were created, by erecting lands into earl-

“ doms and lordships; and probably by some other me-  
“ thod; that cannot now, in matters so ancient, be with  
“ certainty discovered. For a great many noble families  
“ appear, from the rolls of Parliament, to have sat and  
“ voted in Parliament, as Lords of Parliament, though  
“ no constitution of the peerage or title of honour under  
“ which they sat, can now be found in the records. But  
“ as the constitutions in most ancient cases do not ap-  
“ pear, and the chief evidence of the titles being here-  
“ ditary, is the successor's regularly possessing the pre-  
“ decessor's rank in Parliament, it is not possible, with-  
“ out hearing the allegations that may be made, and  
“ examining the evidence that may be brought by con-  
“ tending parties, to form any judgment of the limita-  
“ tions of such ancient peerages; as there is not, so far  
“ as they know, any maxim hitherto established in the  
“ law of Scotland, that can be applied universally to  
“ determine the descent of peerages, where the original  
“ constitution, or new grants upon resignation, do not  
“ appear; and of the difficulty that occurs in settling  
“ such questions, they lately had an instance, in the case  
“ of the peerage of the Lord Fraser of Lovat, which is  
“ undoubtedly subsisting. The last Lord, who sat in the  
“ Parliament 1695, dying without issue-male, his eldest  
“ daughter, and after her death, her eldest son, assumed  
“ the title, having obtained, before the Court of Session,  
“ in absence of the male-heir, a decreet declaring their  
“ right thereto; and on the other hand, his nearest  
“ heir-male claimed it, insisting that the honours were  
“ descendable to heirs-male, and brought his action be-  
“ fore the Court of Session, to have it so found and de-  
“ clared, and to reduce and set aside the foresaid judg-

“ ment by default. The Court, where actions of the  
“ same kind had been thought *competent*, and as such  
“ sustained *before the Union*, proceeded to hear the cause;  
“ and the parties having produced, of either side, all the  
“ documents they could, and having been fully heard  
“ thereon, the Court reduced and set aside the foresaid  
“ decree in absence, and found the title in question de-  
“ scendable to heirs-male; and the defender has hither-  
“ to acquiesced. But whether this judgment is of suffi-  
“ cient authority, they humbly submit to your Lord-  
“ ships, having made mention of it chiefly to shew, that  
“ though, when the parties interested join issue, and  
“ furnish all the light in their power towards the deter-  
“ mination of the cause, the Court must give their opi-  
“ nion; yet, where no party that may be interested is  
“ bound to appear, and to produce and point out in the  
“ records, so far as they may be found there, the docu-  
“ ments that are necessary to instruct their claim, it is  
“ next to impossible for any court, or indeed for hu-  
“ man industry, to make up a state of the interests of  
“ so many persons as fall under this observation, with  
“ any tolerable certainty.”

THE case of Oliphant was tried in the Court of Session, 11th July 1633, *the King himself being present*, as we see from Lord Durie's report of the decision, the Parliament, at the same time, sitting under the same roof, the Lord High Chancellor at the head of both, and the Court partly composed of high officers of the Crown, and of the State, some of whom were Members of Parliament, *ex officio*, besides extraordinary Lords, chosen by the King, who were generally Lords of Parliament. In

such circumstances, is it possible to conceive that such a proceeding would have been held at all, had there been the smallest objection to the competency of it?

The case of Lovat originated before the Union, upon the construction of investitures, the title being connected with the estate, and a competition having arisen as to both, between the heir-male and the heir of line. A decree in absence was obtained by the latter against the former, in 1702, finding that the honours of the family belonged to Mackenzie of Fraserdale, who had got possession of the estate. Of this decree an action of reduction was raised by the heir-male, who had returned from abroad, in 1716, in which we find printed informations and memorials in 1729 and 1730. No objection appears to have been taken, in that cause, to the competency of the Court. It is noticed and commented upon in the passage already quoted from the report of the Court in 1740. The authority of the decision, by which the heir-male was ultimately found to have a preferable right, came therefore to be submitted to the House of Lords, in the terms above recited. Nothing was said or found to the contrary in the House of Lords; no appeal was ever taken from the judgment to that House, so far as known; nor any remonstrance to the King. The parties acquiesced, the Peers did the same, and so did the country. What right, then, can any man now have to find fault with the Court for such a proceeding?

SINCE that time, however, we find no instance of any trial of a peerage question in the Court of Session, unless it be indirectly, in competitions for estates, or in

services of heirs, as happened lately, in the very important case of the Roxburgh succession. But the Court of Session decided only upon the question regarding the *estate*; and whatever influence their judgment, as to the estate, may be supposed to have indirectly upon the question regarding the titles of honour, it is certain that the last was not before the Court at all, but is, at this moment, under discussion before the Committee of Privileges in the House of Lords, by remit from his Majesty, in the form which has usually taken place since the Union.

THE following passage in Balfour's *Practices*, tit. Session, p. 298, seems to shew, that even at the earliest periods after the institution of the Court, the Judges were not desirous of overstretching their authority, but the reverse : “ *Gif ony actioun or cause, intentit or persewit befoir the Lordis of Sessioun, be of swa greit difficultie that thay may not decide nor declare the samine, thay sould refer it to be decided be the estatis in Parliament, 4th March 1534, Kennedy contra M'Lellane ;*” and this reference accordingly took effect in the case there mentioned. See act of Parliament 1535, cap. 32. It will be observed, that the Court was then composed of men of the highest eminence both in the church and the state, with the Lord Chancellor of Scotland at their head. Modern Judges, it is presumed, would be happy if they could, with propriety, adopt the resolution of their first predecessors in office, by referring difficult points to Parliament.

ANOTHER extraordinary criticism has lately been made

upon the jurisprudence of Scotland, which seems to call for explanation. In vol. i, p. 445, of that elaborate work, entitled *Caledonia*, it is said, “ In South Britain, the people have enjoyed, for many centuries, a favourite system of jurisprudence, which is known by the name of *the common law*; but in North Britain, the Saxon settlers never could boast of the enjoyment of a common law. The reason of this singular circumstance may be assigned, in the language of the English jurists, that the municipal laws of Scotland have all arisen within time of memory, at the period of record, at the commencement of the twelfth century.” Again, in p. 734 and 735, we are told, that in “ Scotland the common law had no existence.” It is not easy to discover whether, by these expressions, the learned author meant to impress his readers with a belief that we never had any common law at all in Scotland, or only that we had not the common law of the Anglo-Saxons, to which he gives, *per excellentiam*, that name.

It seems impossible that he can mean the former, as, in other parts of his book, he admits that we have always had our own laws and customs. Thus, in p. 441, he says, “ The customary laws of the Scots may be traced back to the beginning of the sixth century in Argyll; to the end of the eighth age in Galloway; to the middle of the ninth century in the united kingdom of the Picts and Scots; and to the tenth century in Strathcluyd.” Again, he says, “ The Scots introduced into all those countries their usages; because a people do not easily renounce their laws, and

" a rude people are tenacious of their customs." In the same page, he goes on, " The ancient law of Scotland was undoubtedly indigenous; and its origin may be found, by a slight inquiry, in the earliest colonization, when North Britain was settled by the British tribes, who brought their native customs with them into their new settlements." It will be observed that this happened several centuries before the Christian æra. A more ancient common law could not well have been expected.

WHAT then is it that is wanting? Is it the Anglo-Saxon common law? This we could not well have till the Anglo-Saxons came into Scotland, and became Scot-Saxons. But accordingly, we are told, in a note subjoined to p. 445 and 446, " That when the sons of Malcom Ceanmore, the children of a Saxon princess, came in successively, by the aid of a Saxon power from the north of England, they brought with them, at the commencement of the *twelfth century*, the customs and laws of England, as they were then understood and practised." So far he coincides with Lord Kaines, who says, in one of his books, " That the laws of Scotland and England were originally the same, almost in every particular."

THE learned author, therefore, answers himself; and little more need be said upon the subject. The *dicta* of English jurists, with respect to the periods of English record, and English memory, cannot be admitted into a history of Scottish law. It ought always to be recollected, that we were, and continue to this day, notwith-

standing the union, a distinct country from England, in all matters respecting our legal rights.

THE books of *Regiam Majestatem*, &c. may not, perhaps, be so completely authenticated as the laws of King Alfred, or Edward the Confessor; but they are referred to as authentic in various acts of the Parliament of Scotland; and supposing they had never been compiled at all, it would not have followed that we had not ancient laws and customs of our own. It is of the nature of common law to be *unwritten*, unless in so far as it may be handed down and recognized in the general practice of the nation, and the judicial determinations of its Courts. Let us look at the definitions of common law given by Sir Mathew Hale, in his History of the Common Law, Judge Blackstone, Erskine, and others, and compare them with our systems of law, and we shall find that we have just as much common law in Scotland as they have in England, in proportion to our statute law. The rules of succession, the rights of superior and vassal, those of husband, wife, and children, the rules of construction, and an infinity of other particulars, are of that nature.

This leads to offer a few observations upon the subject of appeals from Scotland to the House of Lords of Great Britain and Ireland.

THE old Court of Session, instituted by King James I of Scotland (act 1425, c. 65), was a Committee of Parliament, chosen by the King out of the three estates, *i. e.* the Clergy, the Barons, greater and lesser, and the

Royal Boroughs, with the Lord Chancellor of Scotland at their head. They generally consisted of three out of each estate, and they were called the *Session*, on account of their being fixed to particular places and sittings, instead of being ambulatory, like the Daily Council, which followed the King's Court.

It is not known that appeals were ever admitted from this old Court (consisting of members of Parliament) to the whole Parliament. The act 1457, cap. 62, seems to put a negative upon such appeals; and this was probably thought to follow, from the nature of the institution. Sir George M'Kenzie, in his observations on the last-mentioned act, gives that opinion.

THE present Court of Session, or College of Justice, having been established by James V, in May 1532, we have the authority of President Balfour (p. 268 of his *Practices*) for saying, that within a few months thereafter, the liberty of appeal, in a certain form, to Parliament, was judicially and formally recognized.—“ Gif  
“ ony man thinkis him heavilie hurt be the Lordis of  
“ Sessioun, in pronuncing of ane decret aganis him, he  
“ may protest for remeid of law, and appeal to Parlia-  
“ ment. 18th January 1532, Cunynghame *contra Vi-*  
“ *car of N.*” This date means January 1532-3, according to the legal mode of computation at that time.

BUT so seldom was the right, though thus established, put in practice, that before the reign of Charles II, it fell into complete disuse, insomuch that some of the first lawyers in the country maintained that no such

privilege had ever existed. Balfour's book not being then in print, the memory of the precedent recorded by him had been lost.

IN 1674 the question was revived upon occasion of an appeal then entered. But the Court disallowed the appeal upon an overstretched construction of one of the clauses in the original act of institution, viz. "that their " sentences and decrees should have the same strength, " force, and effect, as the decrees of the Lords of Ses- " sion (meaning the old Court of Session) had in all " times byegone." Stair's Decisions, 5th February 1674. Earl of Dumfermline *contra* Earl of Callender, &c.

SIR GEORGE M'KENZIE was a strenuous advocate against the liberty of appealing; and, indeed, the Scots Parliament itself appears to have entertained the same idea, for Sir George *inter alia* mentions, "that the Par- " liament in 1661, did, by a letter to the King, declare "that there could be no appeal from the Lords of Ses- " sion." Observations on act 1457, cap. 62.

THE decision in 1674, gave rise to a very warm contest upon the subject, and to several important proceedings, the history of which is fully given in Mr. Tait's volume of the Acts of Sederunt (p. 113 and 120), amounting to this, that by a letter from his Majesty Charles II. directed to the Lord Chancellor, the Lord President, and other Senators of the College of Justice, recorded in the books of sederunt, 17th June 1674, the King, in very strong and pointed terms, signified his acquiescence in the same opinion. In consequence of

which letter, and of certain proceedings relative thereto, some of the most eminent practitioners at the bar of Scotland, who had asserted the right of appeal, were for a time banished from the Court, but afterwards, upon submission made by them, and disclaiming their former tenets, they were reponed to their situation as advocates, by an act of sederunt 25th January 1676, which however contains an express declaration of the sovereign authority of the Court.

IT is remarkable, that nearly about the same period, disputes took place in England between the two Houses of Parliament, about the right of appeal to the House of Lords. Preface to Robertson's " Reports of cases on " appeal from Scotland," p. 11.

NOTWITHSTANDING these extraordinary measures taken by the Court of Session, and even countenanced by the King and Parliament of Scotland, there can be little doubt of what was the general sense of the nation, that the subjects of this country had a right to go to Parliament, the *magnum concilium regis*, in case of any wrong done, or supposed to be done, in the courts of law. The distinction between *protesting* for remeid of law, and *appealing*, consisted only in this, that in the one form, process and execution still went on, while in the other all proceedings were stopt, until the appeal should be discussed. There might be some difference in point of expediency between the one form and the other, but the right was, in other respects, substantially the same, and Balfour's authority makes no distinction.

ACCORDINGLY, at the period of the revolution, when a meeting was held of the convention of estates of Scotland in March and April 1689, for the purpose of settling the government, the famous declaration called the *Claim of Right* was drawn up, when we find, *inter alia*, the following article, “ That it is the right and “ privilege of the subjects to protest, *for remeid of law*, “ to the King and Parliament, against sentences pro-“ nounced by the Lords of Session, *providing the same do* “ *not stop execution of these sentences.*” And the declara-“ tion of grievances, cap. 18, bears *inter alia*, “ That the “ banishment by the Council of the greatest part of the “ advocates from Edinburgh, without a process, was a “ grievance.”

LORD STAIR, in his institutions, published after the re-“ volution, combats even these high authorities. He says, that the convention declared *against appeals*, and only meant to save the remedy of protesting for *remeid of law*, without any stay of process or execution, and which he also limits to those cases where the Court has *exceeded its jurisdiction*, or pronounced a judgment beyond its powers. His reasoning against appeals to Parliament, is expressed in terms much too keen and indignant; and, indeed, is extremely inapplicable to the present mode of conducting the business. B. iv, tit. 1, sec. 52 to 61 inclusive, and tit. 2, sec. 18.

THE right of appeal being thus undoubtedly fixed at the revolution, continued to be very little exercised from that time down to the union in 1707. The country seems to have been satisfied with a general recognition.

of the claim, and therefore in the period between 1688 and 1707, we find but six instances on record of causes being reheard in Parliament from the Court of Session, one dated 6th July 1690, when the decree was altered; three others, 1st July 1695, 18th January 1701, and 17th June 1703, when the decrees were affirmed; and two more, 10th October 1696, and 20th January 1701, when the causes were remitted to the Court of Session. In one of these last the remit was in singular terms, viz. "with a *Parliamentary* power to cognosce upon the same." Another appeal in the same cause was afterwards refused, upon the ground of the judgment being final and conclusive by the terms of the remit.

WHEN it is considered that the Parliament of Scotland was a mixed assembly of the different estates, sitting together in one room, and that those best qualified to take the lead in hearing and determining upon private causes, were the Lord Chancellor, the Lord Justice Clerk, the Lord Clerk Register, and the Lord Advocate, who were *ex officio* members of Parliament, and also for the most part Lords of Session; (for it is to be remarked, that the King's Advocate was often a Lord of Session), it may naturally be supposed, that the losing party would not think he had much advantage by having his cause tried over again by nearly the same Judges, and who had immediate access to advise with the other ordinary Judges of the Court of Session.

WHEN the union took place, there was much discussion upon the subject of the Courts. One fundamental point was unalterably fixed, that Scotland should retain its own municipal system of law, and its own

courts and jurisdictions, for the determination of all matters of private right. The 18th article of the treaty of union, after making the laws concerning the regulation of trade, customs, and excise, the same in Scotland as in England, bears, "That all other laws in use within the kingdom of Scotland do, after the union, remain in the same force as before, subject to alterations by the Parliament of Great Britain." Declaring, "That no alteration be made in laws which concern private right, except for the evident utility of the subjects within Scotland." And article 19 declares, "That the Court of Session, or College of Justice, do, after the union, and notwithstanding thereof, remain, in all time coming, within Scotland, as it is now constituted by the laws of that kingdom, and with the same authority and privileges as before the union, subject, nevertheless, to such regulations, for the better administration of justice, as shall be made by the Parliament of Great Britain." Nothing is there said directly upon the subject of appealing; but the same article bears, "That no causes in Scotland be cognoscible by the Courts of Chancery, Queen's Bench, Common Pleas, or any other Court in Westminster-hall, and that the said courts, or any other of the like nature, after the union, shall have no power to cognosce, review, or alter the acts or sentences of the judicatures within Scotland, or stop the execution of the same."

THIS last clause, connected with the former, seems clearly enough to imply that the powers of Parliament were tacitly meant to be reserved, together with the right of appealing to it, as a matter of course, which.

if necessary, might be afterwards regulated; and this, perhaps, was the most prudent way of deciding the question.

DEFOE, in his book upon the union, p. 57, gives us an exposition of the 19th article; and in p. 66, &c. some important observations upon the matter of appeal, stating the difficulties which occurred on either side; to obviate which, he says, a plan was suggested for doing the appeal business by means of a committee of delegates, to be named by the British House of Peers, and to meet in Scotland. This was not a very eligible mode of proceeding, and, after some discussion, it appears to have been laid aside, the Commissioners being probably of opinion, that it was better to try the experiment of going on in the natural course of discussing appeals in the British House of Lords, where, it was to be presumed, there would be no want of the ablest assistance, and the greatest knowledge of law of every kind, and where the people of Scotland had obtained their due share of representation, though not exactly in the form and manner of their old Parliament.

It cannot be denied that the experiment, though apparently a bold one, and much objected to by some of the old lawyers at the time, on account of the trouble and expence attending it, has completely succeeded; and after the trial of a full century, it is believed there is not now any reasonable man in Scotland who would wish to see an alteration. Yet there is some appearance of the Judges in Scotland having been at first averse to the measure. Lord Fountainhall takes notice of a protesta-

tion delivered into the Court, 29th March 1707, about two months after the act of union had passed, by one of the parties in a case then decided, “ for remeid of “ law against the interlocutor to the Queen and Par-“ liament, and, after the union, to their next compe-“ tent judicatory for determining such appeals.” He says, the Court at first refused to admit it, on account of some indecent expressions, and matters of fact wrong stated; whereupon another rectified copy was presented, “ which the Lords allowed the clerks to take in, “ but not to insert in the decreet, seeing the article in “ the claim of right speaks of sentences, but not of in-“ terlocutors.” He adds: “ The Lords would not de-“ termine whether appeals now to the Parliament of “ Britain *are legal or not*; for our article could have no “ such meaning or prospect, and the House of Com-“ mons have long debated if the Peers have such a ju-“ risdiction and power; but left it wholly undecided and “ entire.”

THAT the Court, at that time, submitted with difficulty to the right of appealing, we see from another passage of the same author, 28th February 1708, and from Forbes, in his Journal, same date, and again from Fountainhall, 31st July 1708, 5th and 29th February 1712. Upon the last of these dates, after mentioning that thirteen protests for appeal had been entered, he adds, “ By this number of appeals, we see they in-“ crease every year, to the great impoverishing and “ detriment of this nation.”

THE danger, however, was not so great as the learn-

ed Judge apprehended. These appeals, though entered, did not all come forward. In the first five years after the union, viz. till 1711 inclusive, we do not find more than five appeals in whole discussed. They afterwards began to increase in number; but no dissatisfaction took place on that account, so far as is known.

THE modern writers on our law say very little upon the subject of appeals, except, in general, that they are now competent, whether from interlocutory or definitive judgments; and they add, that the serving of a writ of appeal *stops execution* till the appeal be discussed or passed from. M'Dowal, B. iv, tit. 7, § 15, and Erskine, B. iv, tit. 3, § 2. So indeed it was resolved by an order of the House of Lords, appearing on the journals 19th April 1709. Mr. Robertson, in his preface, before mentioned, seems to doubt whether the House, on making this order, had under consideration that article in the claim of right, which had regulated the matter in Scotland.

THE great lawyers who have successively presided on the woolsack, or taken any charge of Scots business in the House of Lords, from the union downward, are well known to have been men of the highest talents, and fully adequate to so important a duty. This continues to be the case at present, and Scotland is undoubtedly very much beholden to them for the lights which have been thrown upon its law by judgments of the House of Lords, in many instances.

CASES, however, may at times come before them from

Scotland, with which they cannot at once be familiar, being often very much enveloped in local form, and peculiar laws or customs, which must appear strange till they are explained. That great Judge, the Earl of Mansfield, was in use to say, that although not thoroughly master of Scots law, he knew enough of legal principles, in general, to understand an argument upon the law of Scotland, upon which alone he professed to judge in all such cases from that country, as turned upon municipal law, or form; and he was further pleased to say, that he considered himself in those cases to be sitting and acting as a judge in the Court of Session. The same have undoubtedly been the sentiments of all those able men who have successively filled the same department.

THE causes which usually go from Scotland to the House of Lords, may be classed under two general heads. They either, 1<sup>st</sup>, relate to questions which depend on the peculiar laws or customs of Scotland, especially those connected with our *land rights*, which are of *feudal* origin; or with the valuable institution of our records; questions of succession; or relative to the forms of writing and of process; to the attachment of lands; execution for debt, and to the competitions thence arising. In short, all those branches of the law which are in a great measure local, and in which our own established systems of common or positive law must of course be looked to as the only guides.

OR, 2<sup>dly</sup>, they depend on general principles of law,

which have nothing local or strictly municipal in them, but may be reckoned *juris gentium*, such as all commercial questions; cases of contract or *quasi contract*; cases of personal obligation, arising out of the daily intercourse of mankind; questions of legal construction of acts of Parliament, or of deeds, and other matters of a similar nature; to which may be added those causes which depend upon evidence alone, in whatever way such evidence may be taken.

It is the former of these classes which requires the chief attention here. It cannot be necessary to observe, that the Judges of Scotland are bound, by their oaths of office, to determine such causes by their own laws and customs, and that they would be highly culpable were they to do otherwise. They cannot be supposed to have a sufficient knowledge of the peculiar laws or forms of another country; and, it is presumed, the Lords of Appeal will never suffer the properties of Scotsmen, so far as they depend exclusively on the law of Scotland, to be tried by any other law.

On this account, it were to be wished that matters could be so arranged, as that causes of this description should only be heard in the spring vacation of the Court of Session, when counsel from Scotland might conveniently attend the bar of the House of Lords. It is of great importance in such cases, that English counsel, who happen to be engaged in a Scots cause, should have the assistance of gentlemen from Scotland, who are able to explain the peculiarities of our law, with the real

grounds of the decision below, and that stranger counsel should not trust entirely to what they read in printed papers, which they often cannot thoroughly understand, together with very imperfect notes of the arguments of Judges—notes unskilfully taken, and often much worse than none at all, as proceeding on a misapprehension of what fell from the Judges, and sometimes making them speak the reverse of what they did speak.

With a view to this, perhaps it would be desirable were the spring vacation enlarged, by commencing the winter session on the 15th of October, instead of the 12th of November, and ending it on the 15th of February. It does not occur what possible objection there can be to this, in point of convenience either to judges, to counsel, or to parties:

As to the second description of causes, which it is believed are the most numerous, these may, it is humbly thought, be entirely trusted to English professional men, without any disadvantage whatever to the people of Scotland. In matters of personal contract and obligation, gentlemen bred to the bar of Scotland have been long accustomed to set out with studying the civil law of the Romans, not as having any proper binding authority with us, but as containing an approved system of legal principles; and upon that ground-work the study of modern law is superstructured, recourse being had to every source of information, particularly the decisions of the Courts in England upon commercial questions.

In all such cases, therefore, very great deference is paid to the authority of judicial determinations in England, and the highest authority of all is that of the House of Lords.

It is believed there is at present a considerable arrear of undecided appeals from Scotland in the House of Lords, owing, no doubt, to the great pressure of public business, and to the addition of Irish appeals, entered since the year 1800. It is also said, that this matter is to be taken under consideration soon, in the proper place, with the view of devising some means of facilitating the discussion of appeal business in future. The author of these remarks shall not presume to enter at all upon that subject, being neither competent nor entitled to give any opinion upon it. But he takes the liberty of observing, that the act passed in the 48th of his present Majesty, cap. 151, has already introduced two very salutary and useful regulations, for the purpose of lessening the number of appeals unduly entered; the first contained in section 15, which enacts, that appeals shall only be made from definitive judgments of either Division of the Court, and not from those of an interlocutory nature, except in particular circumstances; the other in section 17, which provides, that notwithstanding an appeal in any cause, the Court " shall have power to regulate all matters relative to " *interim possession, or execution, and payment of costs and expences already incurred, according to their sound discretion, having a just regard to the interests of the parties, as they may be affected by the affirm-*

"ance or reversal of the judgment or decree appealed  
"from."

THIS last clause probably took its rise, at least in part, from an opinion of the Judges in Scotland, contained in a petition, signed by the then Lord President, and ten more of the Judges, and presented to the House of Lords in 1807, bearing, "That this evil of the increasing number of appeals may be entirely remedied by some very simple regulations, perfectly consistent with the laws and constitution of Scotland. In the first place, we are of opinion, that in the matter of appeals, the law ought to be brought back to what it was while the Parliament of Scotland existed: That an appeal shall not stop execution, or, at least, that the Court of Session shall have power to regulate the possession pending the appeal, which may be done in various ways, according to the nature of the case." They next suggested, that there should be no appeals against interlocutory judgments, and "that it would be expedient that the House of Lords should allow higher costs, according to circumstances, and should also award interest on the sum in dispute."

It could not be supposed that the resolution of the House of Lords in 1709 upon that subject, especially when it was directly in the face of the claim of right, would stand in the way of any new regulations about it by the higher authority of Parliament; and the grounds of the opinion were self-evident, as it was a notorious fact, that appeals to the House of Lords were fre-

quently entered for the mere purpose of obtaining a delay of justice, and to withhold payment of money, or retain possession of property, perhaps for years together, after it had been finally adjudged in the Court appealed from to belong to another ; till at length, when, in the due order of proceeding, there was a near prospect of the cause being heard, the appellant, knowing the merits to be against him, found it convenient to withdraw his appeal, or allow it to be dismissed without hearing, upon paying thirty pounds of costs. This seemed to be a great and manifest evil, which loudly called for redress, especially now that there was so great an arrear of causes undiscussed ; and it is clear that the Legislature, in framing the 17th section of the act, saw the matter in that light. At the same time, it was thought necessary to leave a certain degree of discretion in the Court, for the purpose of regulating interim possession on execution, according to circumstances, for two reasons : *First*, Because there might be cases in which it would be attended with little or no injury to either party, that there should be a suspension of execution for a time. *Secondly*, Because it might often be proper to follow a middle course, by sequestering or consigning in the hands of an officer of the Court, or of some other neutral person, or, at least, requiring good security for restitution in the event of a reversal. It was thought a safe measure to leave all such circumstances to be judged of by the Court itself. This, besides being more delicate to the Court, appeared much more agreeable to the rules of equity, than requiring in all cases an indiscriminate execution, as was

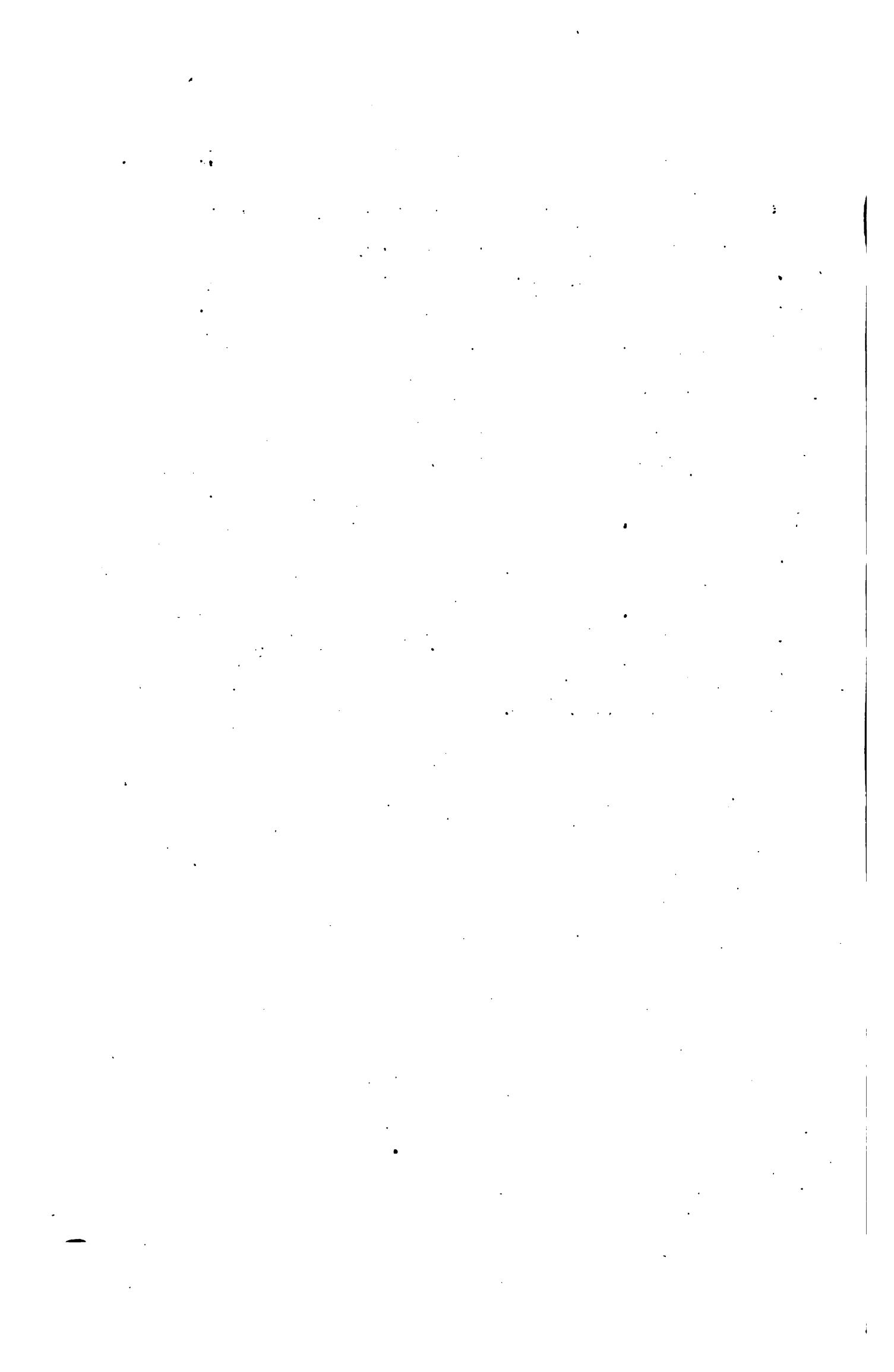
done before the Union ; and however adverse the Judges may be to the exercise of discretionary powers, their duty in this case seems to be sufficiently prescribed by the act itself, which cannot be repealed or altered except by another statute.

A SIMILAR rule is well known to have been adopted in appeals from the Colonial Courts to his Majesty in Council ; and nothing, indeed, can be more obvious than the expediency of it in all cases, where a considerable interval of time must precede the ultimate decision in the Court of Appeal.

THESE observations are, with great deference submitted, as naturally arising out of the original form and subsequent improvements of that establishment to which the present volume relates.

ILAY CAMPBELL.

*Edinburgh, March 1811.*



A C T S  
OF  
S E D E R U N T  
OF THE  
COURT OF SESSION.

27mo Maij 1532.

**S**ESSIO inchoata, in præsentia excellentissimi et serenissimi Regis 1532. et Domini nostri, Domini Jacobi, illius nominis quinti, apud Edinburgh vigesimo-septimo die mensis Maij, anno Domini millesimo-quingentesimo trigesimo-secundo, per reverendissimum in Christo patrem Gavinum, Archiepiscopum Glasguensem, Cancellarium ; ve- nerabiles in Christo patres, egregios, nobiles, et circumspectos Domi- nos, Alexandrum, Abbatem Monasterij de Cambuskynneth, Presi- dentem ; Magistrum Richardum Bothuile, Rectorem de Erskirk ; Dominum Johannem Dingwell, prepositum Sancte Trinitatis prope Edinburgh ; Magistrum Henricum Quhyte, Rectorem de Fynevin ; Magistrum Willielmum Gibbsone, Decanum de Leſtalrig ; Magistrum Thomam Hay, Decanum de Dunbar ; per dictum supremum Dominum nostrum Regem, in ultimo suo Parliamento, cum trium regni sui statuum consensu electos ; et in absentia Magistri Roberti Schanwell, Vicarij de Kirkcaldy, et Magistri Arthuri Boyes, similiter ut supra electorum, Robertum, Abbatem de Kinloss, et Magistrum Georgium Ker, præpositum de Dunglas, per eundem Dominum Regem nunc electos et admissos ; Willielmum Scott de Balwery, Johannem Campbell de Lundy, milites ; Jacobum Coluile de Est Wemys, Cancellariæ Directorem ; Magistrum Adam Ottirburne de Auldhamme, prepositum Edinburgi, Nicholaum Craufurd de Oxgangis, Clericum Justiciarie ; Magistrum Franciscum Bothuile, et Magistrum Jacobum Laufon, similiter electos in dicto Parliamento.

The quhilk day, in presens of the Kingis Grace, all the foirsaidis Oath de persounis ar sworne to do and minister justice to all our Soyerane fidelis.

\* The marginal titles are, for the most part, not in the original, but affixed by the Editor.

## ACTS OF SEDERUNT

1532. Lordis liegis in all caufis yat fall happen to cum effore thame, eftir thair conscience, knawlege, and undirstanding, as thai fall anfuer to God and his Hienes.

*Item,* The said day the Kingis Grace hes committit his power to my Lord Chancelar, and Abbot of Cambuskynneth, President, conjunctlie and severallie, to ressave the athis of thaim that are absent, chosin and nemmit to be of this Sessioun ; and in thair absence, the athis of ony uthir quhem his Grace will nem thair to, geif the saidis persounis chosin cumis not betwix and Settiday nixt to cum ; and, in absence of my Lord of Cambuskynneth, President, the Kingis Grace hes chosin the Abbot of Kinloſſ to minister thairin, quhill his returning.

*Power by the King to make rules.* *Item,* His Grace\* hes gevin command to the Chancelar, President, and Lordis of the Sessioun, to avise counsell, and conclude apon sic rewlis, statutis, and ordinancis, as fall be thocht be thame expedient to be observit and kepit in thair maner and ordour of proceding at all tymes ; and as thai divise, conforme to resoune, equitie, and justice ; and his Grace fall ratify and appreve the famin : And ordanis the saidis Lordis of Sessioun, to keip all thir viij dais cumand, in avising and making of thir rewlis and statutis for the ordoure of justice, and eftir the forme of the famin, to begyn and call materis on Monunday nixt to cum : And, in the meyn tyme, to deliver billis, and call previlegeit materis as thai fall think expedient.

*Admission of Clerk Register.* The quhilk day, the Kingis Grace hes admittit Maister James Foulis to the office of the Clerk of Registrie, Rollis, and of Counſale, and hes presently chosin him ane of the Lordis of his Sessioun, and to have voit thairin as uthiris the fornemit, chosin and ratifyit in Parliament forſaid.

*Statutes of the Session.*

**H**EIR followis the statutis and ordinancis maid at the command of ane maift excellent and hie prince, James, be the Grace of God, King of Scottis, and of his name the Fift, be ane maift reverend fader in God, Gawayne, Archibisshop of Glasgow, Chancellar ; Alexander, Abbot of Cambuskynneth, Presedent ; and the remenant of the Lordis of Sessioun, chosin be his Hienes in Parliament, to be observit and kepit be the said Lordis of Sessioun, Aduocatis, and Procuratouris of the samyne, and be all Clerkis, Scribis, Maseris, and vthir ministeris of Court, in all tymys cummyne.

*1. Division of the kingdom into quarters.*

In the first, it is deuisit, statut, and ordanit, that the Lordis of the Sessioun fall begyne quhar thai left last in calling of the table ; and that the privilegit summondis of every quarter falbe tablit with the vnprivilegit sumoundis of that quarter ; and all to be callit, and have proceſſ, baith upoun privilegit and vpriuilegit, quhill that diett or quarter be endit ; and to begyne quarter efter quarter, as efter followis, and thir schiris followand to be in the first quarter, that is to say, Forfar, Kincardin, Abirdene, Banff, Elgyne, Foreſ, Narne, Inuer-nes, and Cromerty : The secund quarter, Edinburgh, Linlithgow, Selkirk, Peblis, Roxburgh, Beruik, and Hadingtoun : The thrid

\* The act establishing the College of Justice gave this power to the King.

OF THE COURT OF SESSION.

3

quarter, Stirling, Air, Renfrew, Lanark, Vigtoun, Dumfres, Kircud- 1532:  
brycht, and Anandedale : The ferd quarter, Fiff, Perth, Clackmanane, Kinrois, Dumbertane, Ergile, and Bute.

*Item,* It is deuifit and ordanit, that thir summondis vnder writtin 2. Privileged fall be privilegit, and to be callit by the ordour of the diettis : That is to say, recent spulries, calling of letters, redemyng of landis, actis of adjornale, superiouris to heir thame decernit to tyne thair superioriteis, reductioun of inordinat proceſſ, that is to say, retretting of rolmentis of Courtis led befor Shereffis, Baronis, or Baillies, retretting of decretis, and transferring of decretis ; and thir to be callit be thame self, and to be callit olklie apoun Mononday ; and giff Mononday beis hali-day, to haue proceſſ apoun the nixt day thereftir ; and all thir to be callit, except lettres that concernis hornyng, quhilk fall have process at all tymys as thai cum.

*Item,* All vthir matirs to be callit be the ordour of the table, apoun 3. Order of all the dayis of the olk, except Friday, quhilk is assignit for the Kingis the roll. materis, and the materis of strangelaris ; and giff the Kingis Grace, nor strangelaris, has na matiris ado apoun Friday, thane the commone table to haue proceſſ ; and sikelik the Quenis materis : And it fall be na exceptioun to allege that the said Friday is ordanit for the Kingis materis.

*Item,* That all continuationis of proceſſ befor the Lordis, quhar 4. Continuations of pro- actis ar past, to be callit at the dayis assignit thereto, for expeditioun cess. of witnes; and eschewing of expensis.

*Item,* It is deuifit and ordanit, fra thine furth, that it be eekit in 5. Direction all deliuuerance direct to Schereffis, or vthir Jugis Ordinaris, that thai to inferior admitt to the partijs all thair lauchfull defensis ; and to minister juf-judges. tice equallie to baith the partijs as accordis.

*Item,* That settis be honestlie maid and couerit with grene clraith, 6. Form of flokit on the Kingis expensis, quhar the Lordis fall fit ; and falbe bench. maid ane burd quadrangulare or rownd, about the quhilk thair may fit xvij personis eselie ; and that thair be maid sett aboun sett, and ane bell to be hungin, to call in masaris, or parteis, as the Lordis requiris.

*Item,* That all the Lordis fall entre in the Tolbuth and Counſal- 7. Hour of housſ, at viij houris in the mornyng dayly, and fall fit quhil xi houris meeting. be strikin.

*Item,* Alſſone as the Lordis be enterit in the Tolbuth, that an maif- 8. Shut fer ifche the Counſal-housſ, and himelf fall stand at the dur, and latt doors. na man entre ; and giff ony Lord, or vthir man, cummys to the dur, and desiris enteres, that he aduertifs the Lordis therof ; and giff thai haue ony mater, thai will propone, that silence be had, quhill thai haue done, and than to remoue.

*Item,* That na man entre to pley, bot the parteis contenit in thair 9. No man to summondis, and thair procuratouris, giff thai will ony haue. plead, except

*Item,* Incontinent eftir the Lordis be enterit and sittin done, and the parties all the housſ ischit, that all billis be first red and exped ; and giff curators. ther be ony actis of continuationis of proceſſ begun, that the famyn 10. Order of be nixt callit ; and fra tyme the Lordis begyne to call ony mater or proceeding. act of continuationis, that na bill be refauit nor red ; and fra tyme that

## ACTS OF SEDERUNT

1532. that ony summondis be callit be the table, that na act of continuatioun be callit for that day ; and that all parteis, or thair procuratouris, deliuer to the Chancellor, or President, thair billis, actis, and lettres of continuatioun, or thair entre in the Tolbuth, or incontinent thereftir, at the charge and warnyng of ane massair.

11. Ordinaries to examine witnesses. *Item,* That olklie thair be deputle thre of the Lordis of the seitt in thair towir, that is to say, the first olk twa spirituale and ane temporale, and thereftir twa temporale and ane spirituale ; alsua furth olklie, as thay ar put in bill and ordour, to examyne all witnes ; the quhilkis Lordis fall convene euery day, as neid requiris, in the Counsal-housis, at twa eftir nyne, wyth the Clerk of the Counsale, or ane of his clerkis and writaris, suorne and admittit be the Lordis, and fall remane quhill four houris in the examinatioun of witnes, or shortar, or langar, as neid beis ; and all the parteis, or thair procuratouris, be warnit to bring thair witnes at the saidis houris.

12. Order of table to be observed. *Item,* That na mater be callit bot by the table, conforme to the statutis abone writtin, maid, and deuyfit tharupooun.

13. Manner of delivering opinions. *Item,* That the Lordis beand sittin done, and billis begune to be red, that silence be had amangis the Lordis ; and that na man commone nor speke of ony mater, nor round wyth his merrow, bot as he salbe requirit and sperit at be the Chancellor, or President ; and as thai command ony twa Lordis of the seitt to argone or dispute ony mater, that nane vthir interrup thame quhill thai haue done, and than the Chancellor, or President, to requir ony vthir to argone the mater ; and when thai haue done, giff thai be ony vthir of the Lordis that hes ony opiniyone or argument to mak, at thai ask leiss fra the Chancellor, or Presedent, and than to argone as thai think expedient.

14. Of voting. *Item,* All argumentis and disputationis beand maid, and the Lordis haldand silence, my Lord Chancellor, or President, fall ask and requir euery Lordis woit in that mater, as thai ar in the ordour be the actis and bukis of Counsale, quhais namis the Clerk of Counsale fall red and neme, and sua ordourlie the Chancellor, or President, to ask euery Lordis woit, and that nane argone ane vthir in the gevin chair of.

15. Quorum. *Item,* That in the avising and gevin of all sentence and decretis, thair be tene of the Lordis, at the leſt, with the Chancellor, or President ; and that nane of the Lordis chosin and admittit on the Seſſioun, depart, or byid away, without licence askit and optenit fra the Chancellor, or President, in presence of the hall Counsale, for resonable caufis, and that thai returne agane at the day affixit to thame.

16. Publication of evidence. *Item,* That all publicationis of witnes, and vthir attestationis and examinatioun of process, be maid before the haill auditour.

17. Execution of decrees. *Item,* That all sentence and decretis of the Lordis be execute in tymys cumyne, be Schereff of the Schir, or his deputis, quhar the parteis duellis, aganis quhame the saidis decretis ar gevin, or fall-happin to be gevin, or ellis be heraldis, purſewantis, or masaris ; and that nane tak mair for the executioun of thair office, bot efter the forme of the act of Parliament, bot giff it be beneuolence of party, ondre the pane of deprivation of thair office ; and that thai deny nocht to do that office vnder the pane fforesaid, alsweill to pure as riche.

*Item,*

*Item,* That all Clerkis of the Signet be suorne to exerce thair offices 1532.  
lauchfullie and diligentlie; and nane of thame fall reveil, nor mak ~~any~~  
manifest, to ony man, quhat thai wrigg or dois for ane vthir; bot fall<sup>18.</sup> Clerks of  
kep all closse and secrete. the Signet.

*Item,* That na Clerk of the Signet tak mair for the wrigg of ane<sup>19.</sup> Their fees.  
bill bot viij d.\* And for the wrigg of ane letter apoun ane decree of  
the Lordis and deliuernace, bot xx d.† nor for nane vther letter mair  
than wes vsit in our Soverane Lordis tyme that last deceffit, quhome  
God assolyie, under the pane of tinsale of his office.

*Item,* That na Clerk of the Signet entre in the Counsal-hous, for<sup>20.</sup> Clerks of  
the deliuering of ony billis, bot that all deliuernace be wrigg be ane<sup>the Court.</sup>  
Writar of the Consale; and to provid that nane fruster ane vthir of  
his laubouris and proffitt, that euerilk Clerk of the Signet that wriggis  
ony billis, mark the samyn with his awin name in the bill within;  
and the saymn falbe deliuuerit to him agane, or to the party, quhilk  
of thame cummyns to ask the said bill, thai payand to the writtar of  
the deliuernace for his laubouris iiiij d.‡

*Item,* That all Maffaris be suorne to excersis thair office faithfullie<sup>21.</sup> Duty of  
and diligentlie; and thay fall reveil nathing that thai salhappin to<sup>Machers.</sup>  
heir comonit amangis the Lordis, vnder the pane of depriuation and  
infamite.

*Item,* That na Maffar tak mair fra ony partie that happinnis to op-<sup>22.</sup> Their fees.  
tene ane decret in Sessioun, bot ij ss.§, bot giff it be the parteis awin  
benevolence, onder the pane foresaid.

*Item,* It is statute and deuifit, that thair be ane certane nomer of<sup>23.</sup> Number  
Aduocatis and Procuratouris, to the nomer of tene personis, that sal-<sup>of Advocates.</sup>  
be callit Generale Procuratouris of the Counsalt, of best name, knaw-  
lege, and experience, admittit to procure, in all actionis, of quhame  
the namys heirefter followis, that is to say, Maister Robert Galbraith,  
Maister Robert Leslie, Maister Henry Spittall, Maister John Lethane,  
Maister Henre Lauder, Maister Thomas Kyncragy, Maister Thomas  
Margerebankis, Maister William Johnestoun; and giff ony vtheris  
cunniyne and able men will defyr to be admittit to the office of aduo-  
catioun and procuratioun, thai falbe reslauit with the avis of the  
saidis Lordis for completting of the said nomer, and that thir foresaidis  
Procuratouris procure for euery man for thair waigis, bot giff thai  
haue ressonable excus.

*Item,* That all the saidis Aduocatis and Procuratouris, chofin, or to<sup>24.</sup> Oath to  
be chofin and admittit, falbe suorne to excersis faithfullie and diligent-<sup>be taken by  
them.</sup>  
lie, the office of aduocatioun and procuratioun.

*Item,* It is statute and ordanit, that all Aduocatis and Procuratouris<sup>25.</sup> To enter  
fall entre in the Counsalhous at the calling of all summondis and<sup>and remove  
with the  
parties.</sup>  
actis, and remane quhill the parteis haue argonit and dispute thair  
materis at the bar; and than to remoue quhen the parteis are re-  
mouit, and than to entre agane at the gevin and pronunciatioun of in-  
terlocutouris, when the parteis enteris.

*Item,* It is statut and ordanit, anentis proces and formalite, to be<sup>26.</sup> Manner  
kepit be Aduocatis in pleying befor the Lordis, that ane dilatour ex-dilatoris,  
&c.

\* Two thirds of a penny sterlinc.

† One and two thirds of a penny sterlinc.

‡ One third of a penny sterlinc.

§ Twopence sterlinc.

1532. ceptioun being proponit and repellit be ane interlocutour of the Lordis, that the Aduocatis, Procuratouris, or parteis, be thair selfis, fall propone all the laiff of thair delatouris at anis; and that nane Advocat, nor Procuratour, stand within the bar to pley, bot pas outwyth with the partie, except the Kingis Aduocat.

JAMES R.

REX.

King's ratifi-  
tion. FORSAMIKLE as we, for the grete ardent affectioun that we haue for justice tobe done, and equallie ministrate to all our liegis, has in our last Parliament chosin ane certane of personis, spirituall and temporale, tobe apoune our daylie Sessioun, and to minister justice equallie amangis all our liegis, as said is, efter thar conscience, witt, and understanding; and all the saidis personis ar suorne to do the samyne; and als thai haue, at our command, maid certane statutis and reulis to be observit and kepit be thame self and vtheris in that doing and proceding for justice at all tymes; the quhilke statutis and reulis we have subscriuitt wyth our hand, heirfor, we, of our awin free motive, and propri will, ratifijs and apprevis be thir presentis, all and sindrie the saidis statutis maid be our saidis Lordis of Sessioun in euery poinct. Attour, we promitt to our saidis Lordis, that we fall nocht be ony our priuat writting, charge, or command, at the instance of ony persoun, desir thame to do vtheris in ony mater that fall cum befor thame, bot as justice requiris; or to do ony thing that may brek the statutis maid be thame, at our command for the ordouring and doing of justice. Als, we fall authoris, manteyine, and defend all the saidis Lordis, thar personis, landis, and gudis, fra all wrang, harme, hurt, and injurie to be done to thame be ony maner of persoun; and quhay that dois in the contrare salbe punist wyth all rigour. And becaus the saidis Lordis chosin apoune our Sessioun, presentis our persoun, and beris our auctorite in the doing of justice, we fall haue thame baith spirituall and temporale, in speciaill honour and maintenance; and we fall giff na credence to ony man that will murmure thame, or ony of thame, be doing of wrang, or with unhoneste, bot thai salbe callit befor ws; and giff thai be fundin culpable, to be punist therfor, efter the qualitie of thar falt and demerite; and giff thay be fundin clen and innocent, the persoun complenand salbe punist with all rigour, and never to haue credence of ws agane. Attour, because the saidis personis mone awate daylie apoun our said Sessioun except at feriat tymes, and fuld be therfor privilegit abone vtheris; heirfor, we have exemit, and be the tenor heirof exemis thame, and every ane of thame, baith spirituall and temporale, fra all paying of tax, contributioun, and vther extraordinare chargis, to be upliftit in ony tymes cuming, and fra the bering of ony officis and chargis wythin burgh, or utouth, bot giff it be wyth thar awin fre will and consent. Item, We grantt to our saidis Lordis of Sessioun, that giff ony persoun dishonouris, or lichtlyis thame, or ony of thame, in ony maner of way, that thay may command and charge, and put that persoune, or personis, in ward in our castel of Edinburgh, or ony vthir our castelis thai pleiss, to remane quhill thai haue maid satisfacioun for the falt, at the saidis Lordis consideratioun, giff the falt be small and injurious;

OF THE COURT OF SESSION.

7

injurious; and giff it be grete, quhill thay advertiss ws therof, that 1532.  
we may gar the samyne be amendit, and punysment maid thairfor  
as efferis. And this our ratificatioun and approbatiou promitt  
and grantt of all thir premissis, we haue subscruitt with our hand;  
and ordanis the samyne to be put in the bukis of our Counsale, the  
gidder with the statutis maid be our saidis Lordis of Sessioun, sub-  
scriuit elikviss with our hand, at our castel of Sterling, the x day of  
Junij, and of our regne the xix yeir.

JAMES R.

13 Jun. 1532.

THE Lordis ordanis the tabular to table all summondis pertenand Order of the  
to the Kingis Grace, concerning his profite, as the Thesaurar King's pre-  
and Aduocate requiris him, owther be tikkat or table, as thai think  
expedient, to be callit wolkie apoune Friday; and that the said sum-  
mondis fa tikkarit or tabulit, to be thre dayis on the Tolbuth dur, be-  
for the calling therof; that is to say, the summondis to be tabulit  
on Tysday, that fuld be callit on Friday, sa that the samin may cum  
to the knawlage of the partijs; and the Thesaurar, or Advocat, to  
call sic summondis raisit at the Kingis instance, as thai fall think maist  
profitable, in quhat part of the tablis or tikkatis thai pleiss; and this  
ordinance to be without prejudice of uther partijs, quhar in the Kingis  
Grace has nocht principall interesse, and quhar he has principall in-  
teresse, he nocht be artit to na quarter.\*

17 Jun. 1532.

THE Clerk of Registri askit instrumentis, that the Lordis cum-Clerk Regis-  
mandit him to subscryve the act of Parliament maid laitlie ter's protest.  
for the observation of the privilege and fredome of Halikirk, and  
to deliver the samin to the Legate.—Hora xi.

*Eod. die.*

IN presence of the Lordis of Counsale, compeirit Willame Elect of Abirdene, Thesaurar, and presentit ane writing of our Souerane King. Contribu-  
Lordis, desirand that thai wald register the samin in the bukis of Counsale, and interpone thair auctorite, and decree thereto; the quhilk desir the Lordis thocht resonable, and gaif command to re-  
gister the samin in the said bukis; and ordanis the samin to haue the strenth and effect of thair decree in tyme tocum, of the quhilk the tenoure followis: "REX. Traist and weilbelouit Counsalouris,  
" we grete you hertlie weil, and has understand, be our Thesaurar,  
" your hartlie commendationis, daylie laboris, guid ordour and  
" besines, done for the comone weil of our realme and cure com-  
" mittit to you, quhilkis beleiff surelie we fall haue in remem-  
" brance, conforme to our credence, schawin of befor to you be our  
" said Thesaurar, and salbe at you sum day, peraventur quhene ye  
" nocht beleiff. Forthir, becaus our prelatis gevis us certane contribu-

\* See the first article of the foregoing statutes.

## ACTS OF SEDERUNT

1532. " tioun to be expendit and warit to our necessaris, and honor regal ;  
 " and in auentur, that inopertune Solistarist wald impetrare and desir  
 " of ws dischargeis of part of the said contributioun, quhilk our mynd  
 " is nocht to waist nor spend in ony fort, bot as efferis to our kinglie  
 " honor, and for necessite of the samyne : Quharfor, we, be the tenor  
 " heirof, will, that gif ony discharge or acquittance be gevin or grantit  
 " be ws, to quhatsumeuer persoun, or personis, in quhatsumeuer maner,  
 " wyth clausis of derogatioun of this our wrift, or quhatsumeuer vther  
 " way or forme the saidis dischargis be grantit til, the samyne to be of  
 " na force, strenthe, nor effect, nor will that the samyne haue place,  
 " nor be sufficient discharge nor acquittance befor quhatsumeuer juge;  
 " desiring, and als chargeing you till interpone your auctorite, con-  
 " forme to this our writ and mynd, and to mak ane attentik act ther-  
 " upoun in your bukis, as ye will ansser to ws therupoune : And,  
 " farther, ye fall giff credence to our Thesaurar in this and vther  
 " our materis. Subscriuit wyth our hand, at our castel of Stirling,  
 " the xvij day of Junij ; and als will, that siclik act and ordinance be  
 " maid anentis the payment of the thre tendis be vther kirkmen."

JAMES R.

31 Jul. 1532.

Administration of justice  
in vacation  
time.

THE quhilk day it is deuisit and ordanit anentis the ordouring of  
 justice and ministratioun therof now in this feriate tyme of  
 harvist, in sic materis quhilkis requiris na tabilling ; that the Lordis  
 of the Sessioun, sa mony as fall happen to remane in this toun for  
 the said tyme, fall sitt and minister justice, quhen sic materis cumis  
 that requiris hasty acceleratioun and expeditioun ; and all the Lordis  
 now present hes gevin and grantit their power to thaim that fall  
 happen to remane, as saide is, and fall appreve the samin as thai war  
 present.

Nomination  
of Judges, in  
place of those  
dead or ab-  
sent.

THE Kingis Grace hes chosin my Lordis Archibischop of Sanct  
 Andrews, Erle of Rothes, and Lord Erskin, to be Lordis of his  
 Sessioun, and to be ekit to the remenant of the Lordis therof cho-  
 sin of before, becaus thair is diverse deide, sum seik, and sum away,  
 of the saidis Lordis of Sessione, quharthrow there is no sufficient  
 nomer conforme to the acte maid thereupone of before, to decyde  
 onne all materis, and to minister justice to all his liegis ; therfor his  
 Hienes hes chosin the saidis Lordis to that effecte. Quhilkis Lordis  
 hes sworne, in presens of his Hienes, to minister justice indifferent-  
 ly to all his liegis, efter thair knawlege and conscience, with the  
 laif of the Lordis of Sessioun.

16 Nov. 1532.

King's reno-  
vation of  
grants in mi-  
nority.

REX.—Chancellar, and Lordis of our Counsale, we gret you weill.  
 Forsamekle as our cusinge Johene Duk of Albany our tutour,  
 and Governour of our realme, gaif and assignit, in our tender age, to  
 umquhile

OF THE COURT OF SESSION.

9

umquhill Robart Borthyuk, and Kateringe Borthuik his spouse, the malis, profettis, and deweteis, of certane our landis in Ballincrefe during his will, or quhill our lauchfull age, be wertu of the quhilk gift, we ar informit that the said Kateringe Borthuik tendis to tak up the malis of our patrimone, scho being under sounmondis tharfor, to our gret hourt, and evill example, that ony tutor soulde dispone upone ony pupill heretagh, forthir than for his tyme : Quharfor we declar to you, that our mynd and will is, nocht that the said gift have effect ; bot be thir presentis revokis, cassis, and anullis the sammyn, as maid aganis ws in our gret hourt, and contra baithe the comoune law and gud conscience; and we tharfor sould be restorit, as in beginning, nocht notwithstanding our actis of our Parliament, or confirmationis maid in the contrar : Quharfor we exort and chargis yow, that ye admit na sic gift aganis ws in our gret hourt, bot do ws justice as resone requiris, and as ye do daly, and aucht to be doune to the pouerest of our realme ; ffor it war ane hevy cais that ane tutour soulde dispone ane pupillis patrimonie and heritagh in his less age, and for to hery and distroy him for evir. This, on na wise ye liefe on done, as ye will have speciall thanks of ws tharfore, and do ws singular emplefour, and ansfour to ws thairupoune. Subscrivit with our hand, at Striveling, the xxij day Novembre, and of our ring the xxi yeir, &c.

JAMES R.

13 Febr. 1532.

**C**OMPERIT Gavin Archibisshop of Glafgw, Chancellare, and ex-Judges ponit, that it was the Kingis mynde, that na man beande not to be called out with King's forces. apoune the seite of Sessioune, fulde pafs to ony oistis or weiris, bot remane and vaise apoune the Sessioune and Counsale ; and that thai fulde incurre na dangeire in thair persouns, landis, nor gudis, for remaing fra the saidis oistis, raidis, armyis, or weiris, and commandit to insert the samin in the bukis of Counsale.

4 Mart. 1532.

**T**HIE Thesaurare, in presens of the Lordis of Counsale, was con-  
tentit that na processe fall pafs apoune ony of the Lordis of the Exemption from taxas-  
Sessioune, for inbringing of the taxatioune put apoune thaim be ver-  
tu of the Papis Bullis, and realie dischargeth thaim anent the thre  
teyndis, excepte prelacis, and presentlie commandit Maistir Johnne  
Reide, Provest of Symple, Sub-collectour of the said taxatioune to ceis  
fra all proceding aganis thame, or ony ane of thame, for thair partis  
of the saide taxatis, quharupoune Maistir Williame Gibsoune, Dene of  
Lestalrig, for him self and the remanent of the Collegis, askit instru-  
mentis, hora x.

19 Mart. 1532.

**S**EDERUNT Cancellarius, Abbot Cambuskyneth, Kinlofse, M. Ri. Bothvil M. Hen<sup>cus</sup>. Quhyte, M. W<sup>s</sup>. Gibsone, M. Geo. Kere, Message from the King.

C

## ACTS OF SEDERUNT

1533. clericus registri, Jo. Campbel de Lundy, M. Ad. Ottirburne, Ni:  
Craufurde, Jas. Laufone, Fr. Bothvil.

Comperit Maister James Foulis, Clerk of Registri, and presentit  
the Kingis Grace writingis, and requirit the Lordis abone writhin, efter  
the forme therof, of the quhilk the tenour followis : " Clerk of our  
" Counfell, we greit you wele, and chargis you efter the sicht herof,  
" that ye advertise the remanent of oure Cessione beand present for  
" the tyme, that nain of thaim depart fra our burgh quhill oure cum-  
" ing thereto, for thair avise and counsale to be hade in sic thingis,  
" we have concerning the commoune wele of our realme. Gevin  
" under oure subscriptioun, at Melrose, the xvij day of this instant  
" moneth of Merche, and of our regne the xx yere.

" JAMES R."

13 Jun. 1533.

Order to call a Parliament, in obedience to the King's writ. THE Lordis ordanis ane Parliament, to be proclamit at the market croce of Edinburgh, to be haldin and begin in this to the King's toune, the xxvij day of Julii nixt to cum, for the decisione and con-

clusioun of diverse gret materis, nocht anely concerning oure Soverane Lordis propir effaris, bot also the universale wele of this realme, quhilks desyris the avise, counsale, and conclusioun of the thre estatis of Parliament ; and ordanis the Clerk of Chancelary to direct preceptis in dew tyme to all the saidis thre estatis of Parliament, chargeing them to compere to the samyn the said day, to the effect forsaide, as our Soverane Lordis writingis, sende to the Clerk of Registri in that behalf, maire fullely proportis.

16 Jun. 1533.

Summons of recent spulzie.

WE do you to witt, that forsamekle as it wes devisit of before, that all privelegit materis, togiddir with summondis of recent spulye, sulde be callit wolkie, and have procese upoune Monunday ; and becaus of the multitude of privelegit summondis, the summondis of recent spulyeis ar gretlie postponit and deferrit ; and for remeid therof, the Lordis hes devisit and ordanit, that all privelegit summondis fall be callit upoune Monunday wolkie as thai ar tablit ; and for expeditioun of recent spulyeis, for the wele of the Kingis liegis, ordanis all and sindry that hes summondis of recent spulyeis to be callit ilk Tiisday, quhilk day thai assigne fore the calling thairof, that beis not callit upoune the said Monunday ; and gif the Monundayis or Tiisdayis happynis to be halydays, to proceid thairupoune upoune the nixt werk days thaireftir.

7 Jul. 1533.

HIER followis the names of the Lordis that suld wulkie examin witnessis, ordourlie, as eftir followis :

## OF THE COURT OF SESSION.

*The Spirituale Lordis.*

The Abbot of Kinlof.  
The Lord of Sanct Jhonis.  
Maister Rich. Bothuil.  
Maister Henry Quhite.  
Maister Will. Gibsone.  
Maister George Kere.

*The Temporal.*

Schir Jo. Campbell.  
The Kingis Advocate.  
Mr. James Laufone.  
The Justice Clerke.  
Mr. Francis Bothuil.  
Thomas Scott.

1533.

Memorandum, that the Clerk of . . . . . , and the Director of the Chancery, to supple the place of ony . . . . . Lordis abone writtin, in cais . . . . . be absent, viz. of the temporal.

8 Jul. 1533.

**M**AISTER Johnne Lethame, forspekar for Mark Ker, allegit, Inducie to borderers. thair was ane acte maid, that na bordouris fuld be bordoraris behuvit to remane apoune the keping of the bordouris. And at the last calling of the sumondis libellit be the Lard of Lethingtoun and his tenent, he was absent; and, thairfor, he fuld nocht have bene callit, quhill he had bene callit apoune xv dais thairto; and, thairfore, protestit for nullite of the processe.

17 Nov. 1533.

**A**NENT the supplicatioun gevin in be the kin and frenndis of umquhile Cunygam of Craganis, that quhair, thai traist, the Lord of Counsale knowis that thai have, this Monunday the xvij day of November instant, affixt to thame for the accusatioun and persuite of the personis beand vpone the pannall dilatit for art and part of the flauchter of the said umquhile William; and as thai knew fickirlie the Kingis Grace is of gude mynd, and hes writtin to the saidis Lordis, that justice be done in the said actioune, and that vn-suspekte Jugis and Assissouris be sett to the samin, and the Erle of Ergile is General Justice, quhilk is nocht juge competent committit to thaim, becaus the Maister of Simple, the quhilk is to be accusit this day, for art and part of the said flauchter, and the said Erle standis in tendernes of blude, as thrid and thrid of consanguinitate, as thai fall rekkin, and for uthir caufis, as fall be schewin to the saidis Lordis; and als, thai ar to thole law the said day, and the said Erle is verray suspecte to fitt as justice quhen thai ar accusit, for the caufis forsaidis, and als becaus he takkis plane part in thair contrar; and now thai advertise the saidis Lordis, that the said Erle is suspecte to be juge in the said mater, or his Court fensit; for gif the samin be fensit in his behalf, and his assissouris, and thai proponit ony exceptione aganis the inhabilitate of his persoun, he beand Juge, the Court war castin, and this processe tynt, the quhilk is richt prejudiciale to the actioune, as at mair lenth is contenit in the said supplicatioun. And anent our Sovarane Lordis writing, presentit to the saidis Lordis be William Maister of Simple, the tennour followis: "Chancellor and Lordis of our Counsale, we grete you wele, forsamekle as " anent

## ACTS OF SEDERUNI

1533. " anent this day of law, to be haldin upoun my Lord Semple, his sone, and complicis, it is our will that justice be ministerit equallie, without parcialite; herfor we exhort, and als requiris, gif athir of the saidis partiis hes ony relevant causis of suspicioune aganis ony our officiaris and ministeris of justice for the tyme, that ye remuife sick persounis suspecte, gif ony be, and put utheris in thair place, for equale justice to be ministerit, as thai and ye will ansuer to God and ws, and that this be done with the best expeditioune ye may gudelie. Subscrivit with our hand, at Cowper, the xiiij day of November, and of our regnne the xxi. year." It wes allegit be William Master of Glencarne, that the said Erle of Ergile wes suspecte to fitt him self as juge in the said mater, becaus, sene the last Court of Justicarie, the said Erle of Ergile has resavit David Simple and utheris, beand at the said flaunchter, within the place and toun of Dunnvne; and als, the Lord Simple, and Master of Simple, his sone, hes, sene the said last Court, gevin thair bande of manrent to him, and he hes sene syne solistit for the wele of the said Lordis and Master, and thair frenndis, and for the wele of thair actioune, in prejudice of the said Master of Glencarne, his frenndis, and thair actioune, quhar throw he wes suspecte to be juge to thame. Thairfor, the Lordis counsalis the said Erle of Ergile, the said allegiance beand sufficientlie previt, to remuf him self to fitt as juge in the said mater; but that he depute ane depute, unsuspecte, vnder him, to fitt and to justice therin. Beacaus it is understand to the Lordis, that the allegiance forsaid is relevant, the samin beand previt, as said is.

5 Dec. 1533.

Letters of  
supercedere  
of legal pro-  
ceedings in  
favour of cer-  
tain persons.

**C**OMPERIT Maister Henry Laudere, advocate to our Soverane Lorde, in absence of Maister Adam Ottirburne of Auldham, and producit befor the Lordis this writing under written, subscrivit be the Kingis Grace, and desirit the samin to be insert in the bukis of Counsell, off the quhilke the tenour followis: REX.—“ Chancellare and Lordis of our Counsale and Sessioune, we greit yow wele; for samekle as oure cousing George Erle of Rothes, and our advocate, are under summondis, at the instance of Jhone Lord Lindesay of the Byris, and als our cousing Malcome Lord Fleming, and our advocate, are siclik under summondis, at the instance of Jhone Lord Hay of Yestire, and beacaus our advocate is now to pass in our service in Ingland, he may nocht await apoune the calling of the saidis summondis, for defence of our enteris therein; our will is herfor, and we pray yow richt effectuily; and als requiris and chargis that ye superfeid, dilay, desist, and ceise fra all calling of the said summondis, quhill our said advocatis returning and ham-cuming furth of Ingland agan; dischargeing yow therof, and of your offices in that part, for the causis abone writtin, in the meyntyme, be thir our lettrez, subscrivit with our hand, at Coper, the xx day of November, and of our regnne the xxi. yeir.

JAMES R.”

Apoune the production of the quhilke lettrez, Jhone Lord Hay of Yestir askit instrumentis; hora x.

20 Jan. 1533.

1533.

**I**N presens of the Lordis of Counsale, comperit Maister George Cuke, and gaif in this writing, under writin, subscrivit be the Kingis Grace, and desirit the famin to be registrat in the bukis of Counsale; the quhilke deffyr the saidis Lordis thocht resonable, and ordanit the famin to be insert in the saidis bukis of Counsale, conformit to the Kingis writing; off the quhilke writing the tenour followis: "Chancellor, President, and Lordis of our Counsale and "Sessioun, we gret yow wele. Forsamekle as our lovit familiar "clerk, counsalour, and advocate, Master Adam Ottirburne of Auld- "hame, is now to pas, in our service, to our derrest uncle, the "King of Ingland, for materis concernyng the wele of our realme "and liegis; oure will is herefor, and we pray yow ryght effectuouf- "lie, and als requiris and chargis, that ye desist and cefs fra all "calling and proceding aganis him, his servandis, being with him "in cumpany, kynn, freundis, and tennentis, quhais names he fall gif "to yow in bill, in any actionis concernyng thame, quhill his return- "yng and hamecuming within our realme, and xl dais thereafter; "dischargeing yow therof, and of your office in that part, in the "meyntyme, be thir our lettres; and gif ony persounis happynis to "truble him, his kynn, freundis, and tennentis forsaidis, in brouking "of thair landis, rentis, beretagis, takkis, stidingis, offices, and "rowmes, or possessiounis quhatsumevir, or spulyeis, reffis, or takkis "thairfra thaim ony of thair gudis during the said space, that ye, in- "contenen thereafter, direkte our vtheris lettres, in the first, secund, "thrid, and ferd formes, all to gidder chargeing the saidis persounis, "in generale and in speciale, as thai sal be requirit, to desist and "cefs fra sick trubling, and to restore the spulyie, and ilk forme to "be execute efter vther within thre dais, and to entir in ward, in "our castell of Blacknes, gif thai disobey, and mak an acte here- "upoune, in the best forme ye can devyfis, as ye will have speciale "thank of ws therfor, and do ws singular emplessour, and ansuere to "ws therupoune. Subscrivit with our hand, at Cowper, the xxijij day "November, and of our regnne the xxi yeir.

" JAMES."

Heir followis the names gevin in be Mr. Adam Ottirburne of Auld- hame, subscrivit with his owne hand, to be exemit fra all compeiring or calling before ony Juge, spirituale or temporale, quhill his returning, and xl dais thereafter: Merget Kid, in Kirktonue, Michel Tullo of Hilcarny, Francis Tullo, Walter Tullo, James Yong, ballie of Edinburgh, Thomas Ramsay, burges of the famin, George Robeson, in Lochorword, the lard of Braid yonger, and his man, Rich- art Hereifs, and William Mowbray, in Eſtcragy. (Signed) AD. OTTIRBURNE.

6 Feb. 1533.

**T**HE Lordis of Counsale schew to Schir James Hamiltoun of Concerning Fynnart, Knycht, that it was the Kingis mynd, and for in-<sup>a proposed compromise.</sup> conuenientis that mycht follow, that the mater perlewit be the lard of Anneſtoune aganis Jhonne Somervale war appunctit and aggreet be way of concord, and nocht be the extremitie of justice; the said

## ACTS OF SEDERUNT

**1533.** Schir James ansuerit, that becaus of the allegiance maid be the said Schir Jhone aganis him, he could nocht, of his honour, consent to ony continuatioun of the said mater, bot that the famin, baith for his part, and the part of the Lard of Annestoune, war justifiit be the Lordis decree; and justice beand done thairintill, he was contentit to use the counsale of the Kingis Grace, or Lordis of Counsale, anent the said actioune.

12 Feb. 1533.

Letter from  
the King  
concerning  
the delay of  
a cause.

**C**HANCELLAR and Lordis of oure Counsale, we are informit be oure louitt Jhone Buttir of Gormok, and his curatouris, that the pley of his hale heritage of Gormok hes dependit befor yow, and in your handis, vndecydit, thir twa yeiris bipast, with the maire; and eftir diuers continuationis, ye have maid ane acte, before Yule, to decyde that mater the xv day of Januar last bipast, but langar de-lay, and or ye procede in ony vther mater; and as yit ye have defer-rit the famin, aganis your said acte, quharof we marvell gretlie, gif sa be, confidering we have nocht herd that ye have differit ony mater sa lang: herefore, we pray yow, that ye kepe your said acte in all punctis, sua that we heir na sik complaint of yow; and that the said mater be not differit, throw absence of ony of yow in our service, bot that ye have thair mynd thereintill before thair departing, as ye will ansuer to ws therupoune. Subscrivit with our hand, at Edin'. the xi day of Februar, and of our regnne the xxi yere.

JAMES R.

21 Feb. 1533.

Ordinances  
concerning  
slaughter,  
&c.

**T**HE quhilk day my Lord Chancelar producit before the Lordis of Counsell and Sessioune thir statutis and Ordinancis under writtin, subscrivit be the Kingis Grace, and desirit thame to confi-dere the famin; and geif thai think thaim wele confavit, and necessare to be observit and kepit in tyme to come or nocht; off the quhilk the tenour followis: " REX.—Chancelar, President, and Lordis of our " Counsale and Sessioune, we gret yow hartlie wele. We have thocht " thir thingis following necessare for the commoun wele of our " realm, and specially for stanching of flauchteris; and therfor " sendis thaim presently to you, geif ye think thaim gude, that thai " be auctorizate, or vther wyis left, as ye think expedient.

" In the first, we vnderstand that our abstening fra granting of re- " spittis and remissiouonis for flauchteris, in the yeris bypast, sene thai " ware put fra the vslinge of our auctorite, that misgidit the famin, hes " done gret gud within our realm, and flauchteris that war commoune " of before, are in gret part stanchit; and therfor, for stanching of " thaim efterwart, and that gud pece and rest may be vniuersaly kepit " within our realme, amangis all our liegis, will and ordanis, that ane " acte be maid therupoune, for fife yeris to cum, that na respitt nor " remissione be grantit for flauchter or mutilatione, apoune provisione " to be committit within that tyme; and that nane of our selis gret, " preve, nor signet, ansuer na sic respitt or remissioune, geif ony " hapnis to be solistit of ws, without the said flauchteris and mutila-tionis be exceptit therintill."

The

The Lordis thinkis this artikle rycht expedient to be done, with  
 this additioune, that nother respitt nor remissione, nor vtheris lettrez  
 of dilay, nor relaxatioune fra the horne, for the crymes forsaide, be  
 gevin or grantit, directe nor indirecte, be the Kingis Grace; and geif  
 ony be grantit, be importoune, solistatioune, or utherwyis, the famin  
 to be of nane avale, without thai pass throw all the felis.

*Item,* We heir that our acte of parliament, maid tuiching the  
 girth of flauchteris that hapnis to be committit apoun forthocht  
 felony, takis na effecte, becaus the spirituale men quhilk haldis  
 thame maisteris therof, will nocth deliver the persouns cumand to  
 the saidis girthis, allegeand thai are spirituale men, and becaus it  
 tendis to blude, thai may nocth do the famin, and sa it geniris gret  
 inconuenientis; we desire heirfor, that lettrez be wruttin in our  
 name to all maisteris of girthis within our realm, requiring thame  
 to nem ane certane persoun, quhilk is their ballie, and in that  
 part to be maister of the girth, quha fall ansuer officeris cumand  
 to thame, quhare sic caffis occurris, and deliver the personis, apone  
 souerte, that reparis to the famin girth, swa that justice may be  
 done, efter the forme of our said acte, and that the beraris of our  
 saidis lettrez bring agane the names of the said ballies, callit the  
 maisteris of girthis, and deliver the famin to our Justice-Clerk, that  
 thai may be put in portewis to him, and thereafter lettrez to be di-  
 rect be him, in our naim, to our schereffis, and balyeis, and stew-  
 artis, within quhais boundis the saidis girthis are, certifying thaim  
 of the saidis ballies and thair names, that thai may pass to thame,  
 quhen ony sic caffis occurris, quhen the saidis schereffis and officeris  
 ar chargit therto be lettrez; and sa our said act fall tak gud  
 effect.

*Item,* Becaus we understand that granting of lettrez of legitima- Legitima-  
 tioun to diverse persounis hes done ws hurt and prejudice, and tion.  
 takin mekle proffitt fra ws that wald haif fallin to ws; that ther-  
 for, in tymes cuming, that na sic lettrez be grantit, but composi-  
 tioune making therfor, with our thesaurar, that geif we be hurt  
 the ane way, we may be relevit the other way; and therfor, in  
 tyme cuming, that na signatour be ansuerit at our felis, without our  
 thesauraris consent and subscriptioun, as said is.

*Item,* Forsamekle as ther cumis gret murmour to our eris, that Slaughters,  
 in all the partis of our realme, our rebellis and fugitiuis, for flauch- &c.  
 teris, and vtheris gret crymes, ar commonly refett, suppleit, and  
 mantenit be diuerse our liegis, and that, throw negligence of our  
 schereffis, and vtheris our officeris, havand jurisdiccione immediatly  
 under ws, that ar slewthfull in executioun of their officez, quhilk  
 is ane gret contemptioun of our auctorite riale; for remeid  
 therof, it is our will, that lettrez be wruttin to all scherreffis.  
 within our realm, beginnand at Edinburgh on this syde the water  
 of Forth, and at Fiffe on the northt syde the water of Forth, and  
 to ilk vther scherreff thereafter, makand mentioune how, be neglegt-  
 ing and misvsing of thair offices, in tymes bypast,aganis thaim  
 that hes committit flauchteris, or vtheris gret crymes, within the  
 boundis of thair offices, for quhilk thai have bene fugitiue fra our  
 lawis, and past to our horne, that passis to the nixt schyre, quhar  
 the saidis crymis war committit, and ther remanis, and ar refett,  
 like.

1533. " like as thai had nevir faltit aganis ws; and therfor chargeing  
 " thaim, that thai ferche and seik all maner of personis, fugitiuis  
 " fra our lawis, and at our horne, for ony cryme; and geif ony beis  
 " fundin within the boundis of thair offices, that thai apprehend  
 " thame, and bring thame to ws, or our justice, to be pvnist there-  
 " for, according to thair demeritis; and geif thai be resett within  
 " ony strenth or girth, that thai passe to the lordis and maisteris  
 " therof quhatsumeuir, and in our naim and auctorite requir and  
 " charge thaim to deliver that personis to thaim, apoun souertie  
 " to the maisteris of the girth, efter the forme of our acte of parlia-  
 " ment, to be justifyit according to the lawis of our realm; with  
 " certificatioun to thaim, that and thai falye in the delivering of  
 " the said persoun or personis, thai fall be callit and accusit there-  
 " for, as enforfaris of our rebellis aganis ws, and be punist with  
 " all rigoure; and geif ony persone or personis, committaris of  
 " flauchteris and mutilatioun, eschapis and fleis, out of the schyre  
 " quhair the samin is committit, to the nixt schyre, that the schereff  
 " out of quhais boundis thai fle, efter he have maid detfull dili-  
 " gence\*,

25 Feb. 1533.

Letters of  
respite, or  
supercedere.

**I**N prefens of the Lordis of Counsale, comperit ane reverend fader  
 in God, William bischop of Abirdene, thesaurar, and gaif in  
 this respette vnderwrittin, subscrivit be the Kingis Grace, and under  
 his gret signet, grantit to him and certane vtheris persounis, insert in  
 the samin, and desirit the samin to be registrate in the bukis of Coun-  
 sell, swa that the auttent copy of the samin may be deliuerit to all  
 persounis desirand the samin, contenit in the said respitt, for defence  
 of ther matteris at all courtis, and the samin to be subscrivit be the  
 clerk of registri; the quhilk desire the saidis Lordis thocht resonable,  
 and hes ordanit the samin to be insert in the saidis bukis of Counsell,  
 and the auttent extract therof, subscrivit be the clerk of registri, or  
 his deputis, to be deliuerit to all persounis desirand and havand en-  
 tres to have the samin, off the quhilk the tenour followis: " James,  
 " be the grace of God, King of Scottis, to all and sindry our  
 " justices, schereffis, stewartis, ballies, justice-clerkis, crownaris, and  
 " and thair deputis, and all vthir our officeris, jugis, and ministeris  
 " of our lawis, spirituale and temporale, liegis and subditis, quham  
 " it efferis, quhais knawlege thir our lettrez fall cum greting: Witt  
 " ye, forfamekle as we have directit ane venerable fadere in God, our  
 " traist counsalour and thesaurar, William bischop of Abirdene, our  
 " ambassadour in the partis of Ingland, for expeditioune of certane  
 " gret and wechty materis concerning ws, the wele and honour of  
 " our realm and liegis; we have therfore takin the said reverend  
 " fader, and thir persounis within writtin, to pass with him, that  
 " is to say, ane venerable fader, and our traist counsalour Robert,  
 " abbot of our abbay of Kinlofs, our wel belouittis Maister Robert  
 " Elphinston, persone of Kincardinnele, Maister Arthour Boyis,  
 " persone of Edzell, channouns of Abirdene; Schir David Berclay

\* Sic, in orig.

" of

" of Cullerny, Schir Walter Ogilby of Dunlugis, knychtis; Michell 1533.  
 " Scot, sone and apperande aire to Schir William Scott of Balwery,  
 " knycht, Maister Robert Gray, Maister William Stewart, vicare of  
 " Pitketnow, and thar kynnismenn and frendis; that is to say, Jhone  
 " Lord Inuermetht, Jhone Lord Lindesay, William Scott of Bal-  
 " wery, knycht, Jhone Cranston of that ilk, Alexander Stewart of  
 " Garroles, Robert Stewart of Mynto, Jhone Multrare of Merkinche,  
 " Jhone Multrar, his sone and aire, David Berclay, sone and aire to  
 " the forsaide David of Cullerny, Jhone Lakkert of the Bare, James  
 " Graham, James Stewart of Argowane, Johne Stewart, his brother,  
 " Walter Stewart, Walter Arnot of that ilk, William Lyoun, Archi-  
 " bald Stewart, Maister Robert Stewart brether, Edward Maxwell of  
 " the Hillis, Maistir Alexander Stewart, persoun of Kirkmaho, Mais-  
 " ter George Forester in Leith, Schir Robert Logan of Lestalrig,  
 " knycht, Archibald Galloway, Robert Dvn of Rate, William Stewart  
 " in Todlary, Elene Mertyne, Lady Fastcastell, Maister William  
 " Jhonsoun, Maister William Berclay, . . . . . Inglis of Tervet,  
 " . . . . . Borthuik of Gordouneshall, David Reid of Akinheid,  
 " Robert Dowglas of Lochlevyn, Robert Aytoun of Dunmure,  
 " Adam Lindesay of Dewhill, Patrik Chene of Essilmontht, James  
 " Reid, burges of Edinburgh, Alexander Reid, Adam Blacater of  
 " Inyewar, and all and sindry the said reverend faderis, and vtheris  
 " propir menn, tenentis, servandis, and inhabitantis of the landis of  
 " the bischoprik of Aberdene, provestry of Linclowdene; the landis  
 " of our said abbay of Kinloss, priory of Bewling, and the fornemmit  
 " persounis landis, and all and sindry his and thair actouris, factouris,  
 " procuraturis, and intromettoris, and all and sindry the landis of  
 " the said bishoprik, provestry, abbay, priory, and vtheris, the for-  
 " nemmit persounis landis, rentis, possessions, castellis, towris, tounis,  
 " manor placis, woddis, parkis, storeplacis, cornis, cattellis, grangis,  
 " lochis, fischingis, mylnis, multuris, and all and sindry thair gudis,  
 " movable and unmovable, had and to be had, vnder our speciale  
 " protectioun, supple, maintenance, and saufgard. Attour, we have  
 " respitt and supercedit, and be thir our lettrez in the law, and by  
 " the law, respittis and supercedis all actiounis, caussis, and qua-  
 " rellis, criminale and civil, quhatsumevir, concerning the said re-  
 " verend fader, and persouns abone writtin, or ony vtheris, his  
 " or thait propir nien, tenentis, servandis, officeris, actoris, faktoris,  
 " procuratouris, and intromittouris, inhabitantis within his or thair  
 " landis, and landis of the said bischoprik, provestry, abbay, and  
 " priory, movit or to be movit, aganis thaim, or ony of thaim, be  
 " ws, or vtheris our liegis, to ceiss and rest fra the day of the de-  
 " parting of the said reverend fader furth of our realme, quhill his  
 " returning agane within the samin, and xl dais thareftir: Exemand  
 " him and thaim, and ilk ane of thaim, with all thair actiounis for-  
 " saidis, fra all comperance before quhatsumevir juge or jugis, spiri-  
 " tuale or temporale, during the said space. Quherfor, we charge  
 " stratly and commandis yow, all and sindry, our justices, schereffis,  
 " stewartis, ballies, justice-clerkis, crownaris, and thair deputis, and  
 " all vtheris, our officeris, jugis, and ministeris of our lawis, spirituale  
 " and temporale, liegis, and subditis forsaidis, that nane of yow tak  
 " apoun hand to do, or attempt ony thing incontrare, violatioun,

## ACTS OF SEDERUNT

1533. " or breking of this our licence, protectioun, saufgard, respitt,  
 supersedement, and exemptioun, in ony wise, during the space  
 forsaid, vnder all hieast pane, charge, and offence that ye and ilk  
 ane of yow may committ and incurre aganis oure maiestie; dis-  
 chargeing yow all, our officeris, jugis, and ministeris of our lawis for-  
 saidis, present and tocum, and your deputis, of your and thair  
 offices in that part, be thir our lettrez of speciale protectioun, re-  
 spitt, and exemptioun and supersedement, quhilkis we will in-  
 dure fra the day of the said reverend faderis departing furth of  
 our realme, quhill his returning agane within the samin, and xl  
 dais tharefter, as said is, but ony revocatioun or again calling  
 quhatsumevir. Providing alway, that thir our lettrez of respitt be  
 nocht prejudiciale, in na fort, to our acte maid apoun flauchteris  
 and mutilatioun; subscrivit with our hande, and undir our signet,  
 at Edinburghe, the xvij day of Februare, the yere of God i<sup>m</sup> v<sup>e</sup>  
 xxxij yeris, and of our regne the xxi yere.

" JAMES."

*Eod. die.*

Letter from  
the king con-  
cerning a  
cause before  
the justiciar's  
court.

MY Lord Chancelar producit this writing vnderwrittin, sub-  
 scrivit be the Kingis Grace, directe to the Lordis of Coun-  
 sell, and desirit the samin to be oppinly red in presens of all the  
 Lordis, and that the samin be registrate and insert in the bukis of  
 Counsale, off the quhilk the tenour followis: " Maist Reverend Fader  
 " in God, and traist Counsallouris, we gret yow hartlie wele. Ye knew  
 " how, be diligent persuite maid vnto ws be our couisingis Cuthbert  
 " Erle of Glencarne, and William Lord Simple, for equale justice  
 " to be had in the cause now depending before our Justice, and to  
 " satisfy thaim baith, we nemmit sic persounis as we thocht maist in-  
 " different to thaim baith, and that luvit our honour; nevertheless,  
 " this last Tisday, ther is cumin complaint to ws, that ther is cer-  
 " tane persounis ourtane be ane assise, and convicte, as thai informe  
 " ws, be speciale wais, quhilk we cannocht beleif, nor will geif na  
 " credence therto, and thai desire our mynde to yow, quhilk we  
 " declare is, to do equale justice to baith the saidis partijs, quhilk we  
 " pray yow to do, and dowtis nocht na ye will see the samin done for  
 " our honour, but hurt or murmure of ony party by justice, quhilk  
 " we will nocht declyne fra, for na persoune levand. Gevin vnder  
 " our signet, and subscrivit with our hand, at Strueling the xxiiij  
 " day of Februare instant, and of our regne the xxi yere.

" JAMES."

*Eod. die.*

Against re-  
spites in cases  
of recent  
slaughter,  
&c.

MY Lord Chancelare producit this writing vnderwrittin, sub-  
 scrivit be the hand of our Soverane Lord, and under his signet,  
 and desirit the samin to be insert in the bukis of Counsell, and that  
 publication be maid therof in all schyris and placis neidful, the  
 quhilk desire the Lordis of Counsell thocht resonabile, and hes or-  
 danit the samin to be registrate in the saidis bukis, and that lettrez  
 be directe for the publicatione of the samin in all schyris and partis  
 of

of this realme, in forme as efferis; off the quhilke the tenour followis: 1533.  
 " Chancelar and Lordis of our Counsell and Sessioune, we gret yow  
 " hartlie wele. Forsamekle as we have gevin and grantit to oure  
 " ambassatouris, now to passe in France and Ingland, and vtheris,  
 " thair frendis, servandis, and personis contenit in the famin, our  
 " speciale lettrez of respitt and protectioune, quhill thair returning  
 " agane within this our realme; and under the colour therof, ther  
 " is diuerse persounes that intendis to eschew accusatioun for recent  
 " flauchter, and vthir gret crimez, committit and done be thame  
 " sene the making of our acte, in contrare therof, quhilke we may  
 " nocht do to thaim, our conscience sauf, as we have ellis declarit oure  
 " mynde, and tane instrumentis therupoun, and hes revokit all sic  
 " respittis; heirfor, we yit, as of before, reuokis all sic respittis, to the  
 " effecte that the famin fall be of nane avale, force, nor effecte, to  
 " sauf ony maner of persoun, to be accusit, persewit, followit, and  
 " punist for recent flauchteris, mutikatioun apoun forthocht felony,  
 " committit be thaim, and declaris thaim to be of nane avale, force,  
 " nor effecte, in that behalf. Quherfor we pray, and als chargis yow,  
 " that ye register this our declaratioun and mynde in the bukis of  
 " Counsall, and directe lettrez of the publicatioun therof in all  
 " schyris and partis of our realme, sua that the saidis persounis may  
 " nocht pretend ignorance, geif thai happen to be dilatit, callit,  
 " and accusit for ony sic crymes, as ye luf our honour. Subscrivit  
 " with our hand, at Strueling, the xxij day of Februare, and of our  
 " regne the xxi yeir.

" JAMES."

*Eod. die.*

THE quhilke day my Lord Chancelar productit thir writtingis un- Against re-  
 derwrittin, directe to the Lordis of Counsell and Sessioune, spites obtain-  
 subscrivit be the Kingis Grace, off the quhilke the tenour followis: ed by obrep-  
 " Chancelar, President, and Lordis of our Counsale and Sessioune,  
 " we gret yow hartlie wele, and prayis yow to directe lettrez, in forme  
 " as efferis, with diligence apoun the artikulis, statutis, and ordi-  
 " nancis, subscrivit be ws of before, and registir the famin in our  
 " bukis of Counsell; and forther, we walde ye tuk cure resolute pur-  
 " pose in the last artikule of the famin; we fall be laitht to do ony  
 " thing to the contrare herof, or justice. Subscrivit be ws, at Stri-  
 " ueling, the xxij day of Februare, and of our regne the xxi yere.

" Item, Forsamekle as, be circumuentioun of diuersis persounis, als  
 " wele our awne familiaris as vtheris, we are oft timez dissavit in  
 " granting of respittis and remissiounis, vnder colour of vther lettrez;  
 " and therfor, in fortificatioun and strenthing of our acte, now maid  
 " herupoun, it is our will, and we charge yow, that scharp lettrez  
 " be fende, and publist be oppin proclamatioun, with the vther  
 " chargis of before, makand inhibitioun to all our liegis, of all  
 " maner of estatis within oure realme, without exceptioun of ony  
 " persoune, that nane of thaim procure nor laubour at ws ony thing,  
 " supersedere, dilay, or lett, that ony wife may tend to the ruptour  
 " of our said acte, or contrare the tenour therof, certifying thaim,  
 " geif ony persoune beis ourtane therewith, thai fall be callit ther-  
 " for, for circumvening and dissauing of ws, and be punist therfor  
 " in

## ACTS OF SEDERUNT

1533. " in thair persounis, landis, and gudis, with all rigour, and reput  
 " and haldin anent ws efterwerte but faith or lawte, and nevir to have  
 " traist nor confidence of ws; and the samin lettrez, sa purchest, to  
 " be surreptice and fals in thame self, and na effecte to follow to the  
 " persoun or persounis in quhais favour thai are optenit, and siclike  
 " as thai had nevir bene grantit; and that this be ampliate in stratar  
 " wise, geif ye think expedient, to the quhilk we consent, and ap-  
 " previs the samin. Subscriuit be ws, at Strueling, the xxij day of  
 " Februare, and of our regne the xxi yeir.

" JAMES."

26 Feb. 1533.

<sup>Letters of  
respite, or  
supercedere.</sup> **I**N presens of the Lordis of Counsale, comperit Maister George Cuke, in naim and behalf of Thomas Erskin of Haltoun, knyght, secretare to our Soverane Lord, and gaif in this writing underwrittin, subscriuit be the Kingis Grace, and vnder our signet, and desirit the samin to be registrate in the bukis of Counsale, the quhilk desire the saidis Lordis thocht resonable, and therfor hes ordanit the samin to be insert in the saidis bukis; off the quhilk the tenour followis: " Chancelar, President, and Lordis of our Counsell and Sessioune, we gret yow wele. Forsamekle as our louit familiar clerk and counsalour, Schir Thomas Erskin of Brechin, knyght, our secretare, is now to pass in our service in the partis of France, for materis concerning the wele of ws, our realme, and liegis: Our will is berfor, and we pray yow ryght effectuuslie, and als requiris and chargis, that ye desist and ceiss fra all callinge and proceeding aganis him, his servandis being with him in cumpany, kin, frendis, and seruandis, quhais names he fall geif to yow in bill, in ony actiounis concerning thaim, quhill his returning and hamecuming within our realme, and xl dais thereffir; dischargeing yow therof, and of your officez in that part, in the meyntyme, be thir our lettrez; and geif ony persounis happnis to truble him, his kynn, frendis, and tenantis forsaidis, in broking of their landis, rentis, heritagis, takkis, stedingis, offices, rowmys, or possessiounis quahafsumevir, or spulyeis, revis, or takkis fra thaim ony of thair gudis during the said space, that ye incontinent thereffir direkte our vtheris lettrez, in the first, secund, thrid, and ferd formes, all togidder, chargeing the saidis persounis, in generale and in speciale, as thai fall be requirit, to desist and ceiss fra sic trubling, and to restore the spulye, and ilk forme to be execute efter vther, within thre dais, and to entir in ward, in our castell of Blaknes, geiff thai disso obey; and mak an acle hereapoun, in the best form ye can devise, as ye will haif speciale thankis of ws therfor, and do ws singulare emplesour, and answere to ws therupoun. Subscrivit with our hand, and under our signet, at Edinburghe, the xvij dai of Februare, and of our regne the xxi yer.

" JAMES."

Thir are the names of the persounis that my Lorde Secretar desirit to be supersedit onto his hamecuming; that hes na vther defencis bot him: In the first, all and sindry his propir actiounis, and in speciale, anent his presit landis of Downy, his assignais and tenantis therof,

OF THE COURT OF SESSION.

21

thereof, James Bruce of Rait, Alexander Lamb ia Leicht, and William Carmichell, burges of Dunde. 1533.

SECRETAR.\*

6 Mar. 1533.

**T**HIS Lordis ordanis this writing, underwrittin, subscriuit be the Kingis Grace, directe to the Lordis of Counsell, to be insert in the bukis of Counsell, off the quhilk the tenour followis: " Chan-the King's celar, President, and Lordis of Sessioun, we greit yow hartlie wele. Forsamekle as it wes divisit that na writingis nor giftis, subscriuit be ws, concerning ony our casualiteis, sulde have passage throw our Selis, without the samin had bene subscriuit with our traist counsalour, bischop of Abirdene, our thesaurare; and now our said thesaurare is hastily to depart, as our ambassatour, to our louit vncle of Inglande, and levis our louit seruitour and his, George Merschell, to use and exerce his office to his returning: Our will is, and we require yow effectuuslie, that ye mak semblable ane acte and statute, that nane writingis nor giftis, tuching ony our casualiteis, have passage throw our selis, notwithstanding our subscriptione, without the samin be subscriuit with the said George, our servitour, apoun the bak, as use is, quhill the returning of our said thesaurare. Subscriuit with our hand, at Edinburghe, the xv day of Februare, and of our regne the xxi yere.

" JAMES."

8 Maij 1534.

**A**NENTIS the Kingis Gracis writingis directit to the Lordis of Counsal and Sessioun, wyth certane artikulis contenit in the samin, of the quhilkis the tenour followis: " Memorandum, to persuaid the Kingis Grace to extend the act of Parliament maid contrarie the Lutheranis, be the avis of the Lordis of Counsal, in the maist ample forme, for stanching and putting done of this heresy, and to cauſſ diligent inquisitioun be maid baith be spirituall and temporale, for destroing of thir new bukis maid be the said Lutheris secteis, baith in Latyne, Scottis, Inglis, and Flemys.

" Item, To put in ilk burge on the see, and vther gret tounis of the realme, Jugis criminall, to puneis sic trespassouris quhair thai ar fundin, baith in persoune and gudis, and to assist to the spirituall jurisdictione for executioun making apoune sic personis as thai happen to be requirit.

" Item, Of the resettaris and harbriaris in thair lugeingis, of stranglearis and vtheris of that secte cumand furth of vther cuntrieis, hidaris, and concelaris of sic personis and of thar bukis.

" Item, To put remeid to the freris at ar tholit pass furth of the realme in apostasy, and of the haly preaching making to the peple without ony reheris of opinabile materis, bot in the sculis; and to gar warne all the gouernouris of religioune, sic as prioris and

F " wardanis.

\* Similar letters were granted to Sir Thomas Erskine and others, 12th March 1533.

1533: " wardanis that thai tak diligent tent and cuir apoune thair bretheris  
 " for eschewing of inconvenientis.

" REX—Chancellair, President, and Lordis of our Counfall and  
 " Sessioune, we gret you weill, ye fall onderstande that we ar treuly  
 " informit of diuers tractatis, and bukis translatit out of Latin in our  
 " Scottis young be heretikis, favouraris, and of the secte of Luther, ar  
 " send within this realme to diuers partis of the famin, as Leith,  
 " Edinburgh, Dunde, Sanct Andreis, Montroiss, Aberdene, and Kirk-  
 " caldy, to infect the invart partis of the famin, without hasty re-  
 " meid be put thairto: Heirfor we pray, ande als requiris and chargis  
 " you, that ye provid and see the scharpast way possibile for the  
 " stanching heirof in tyme; and we fall nocht fail to put in execu-  
 " tionue it that ye ordane in our name. Therfor committand to you  
 " our full power in that part, to creat and mak actis and ordinancis;  
 " under quhat panis ye think expedient, and therupoune to direct our  
 " lettrez criminaly or ciuily in the best fort; and gif ye be sleuthfull  
 " heirintill, the perell therof fall ly to your charge, and nocht to ws,  
 " sen we ar reddy till do that ye avis ws to do. Subscriuit be ws at  
 " Abirdene, the thrid day of May, and of our regne the xxi yer.

" JAMES."

And als anentis the artikule proponit be my Lord Chancellair, gif  
 the Kingis Grace mycht put his act of Parliament maid aganis the  
 hamebringaris, and withholdaris and disputaris of the bukis and op-  
 nionis of the heritice Luther and his discipulis, without dirogatioun,  
 liberte, and jurisdiction of haly kirk. The Lordis, with  
 the auiss and counfall of the saidis prouincial and thair brether for-  
 said \*, thinkis that the said act of Parliament may be put to execu-  
 tioun in all poinctis, quhilk makis na dirogatioune to the liberte and  
 jurisdiction of the haly kirk; and anentis the twa first artikulis con-  
 tenit in our said Soverane Lordis writingis, the Lordis findis the  
 famin sufficientlie providit be the said act of Parliament; and as to  
 the thrid artikule, the Lordis ordanis lettrez to be direct to the Prouest  
 and Baillies of Burrowis quhair strangelaris arrivis, to command and  
 charge thame, that thai, and ilk ane of thame within thair awin  
 burghe, commande ande charge all inhabitaris of the famin, quhair the  
 saidis strangelaris salhappin to be lugeit, to forbid thair oistis and  
 strangelaris to argone, disput, or comone of ony of the saidis Luther-  
 is, or his discipulis, opinionis, or to have with thame ony of his  
 bukis; and gif the saidis strangelaris dois in the contrare, that the  
 saidis personis quahame with thai happen to be lugeit, that thai reveill  
 the famyne to the saidis Prouest and Baillies; and that thai thereafter  
 incontinent command and charge the saidis strangelaris nocht to haue  
 ony

\* The persons who assisted at this sederunt appear, from the record, to have been the following :—" Cancellarius, Abbates Sancte crucis, Cambuskyneth, Driburgh, Domini Ruthvene, Saucti Jobannis, M. Richardus Bothuel, M. Georgius Ker, Magister Henricus Qubit, Magister Willielmus Prestoune, M. Johannes Weddel, Clericus Registri, Nicholaus Craufurde, Prepositus Edinburgi, Thomas Scot, M. Franciscus Bothuel, Frater Johannes Greirsoun Provincialis fratrum predicatorum, Frater Johannes Dunbar, Frater Johannes Bothuel Guardianus fratrum minorum, et Frater Morisius . . . . ejusdem ordinis.

ony of the saidis bukis, nor disput ony of the saidis opinionis in-  
 contrare the said act of Parliament, onder the panis contenit in the  
 samin ; and gif thai do in the contrare, to arrest thair schippis, gudis,  
 and personis, quhill the Kingis Grace, or his Counsall, be aduertisit  
 tharof, onder all hieast pane and charge that estir may follow, and  
 letrez to be direct heirupoune. And as to the last artikule, my  
 Lord Chancellair, in name of the Kingis Grace, hes requirit the said  
 prouinciall and wardane to tak gude tent and diligence, that na ser-  
 mones be maid be thair brether, quhair throu ony new opinionis  
 opinabile ma ryiss in the comone pepile ; and to advertiss all thair  
 wardanis and brethre thair of, quhilk thai promittit to do to the  
 weill and edificatioun of all our Soverane Lordis liegis.

1534.

21 Jan. 1534.

**T**HE quhilk day, Alexander Abbot of Cambuskynneth, President, Nomination  
 in presens of the Lordis, producit our Soverane Lordis writ-<sup>of Lords of</sup>  
 tingis, subscruiuit with his hande, and under his signet, makand mentioune  
 that the nomer of the Lordis of Sessioune wes sumthing waik, and  
 divers of thame wes absent ; therfor his Grace, to fortyfy the no-  
 mer of the samin, to the effect that it may persist in gude and sure or-  
 dour as it is begvnne, hes chosin ane reverend fader in God, William  
 Bisshop of Abirdene, his Thesaurare, and Schir Thomas Erskin of  
 Brechin, Knycht, his Secretare, to be of the nomer of the said Sef-  
 sioune, and desirit the Lordis of the said sete to accept thaim, and  
 ressave thair athis in that behalf. The Lordis forsaide hes accept the  
 said reverend Fader and Secretare forsaide, to be of the nomer of  
 thaim, conforme to the Kingis Gracis mynde ; and has ressauit thair  
 athis, that thai fall lelely and trewlie minister justice to all our Sove-  
 rane Lordis liegis, equally and indifferently efter thair knowlege,  
 conscience, and discretioune, as thai wald answe to God and the  
 Kingis Grace, and to observe, keip, and fulfill, all actis and statutis,  
 maid anentis the ordouring of the said sete.

2 Mar. 1534.

**I**N presens of the Lordis of Counsale, comperit my Lord Secretare, Appointment  
 and producit the Kingis Gracis writing underwrittin, subscruiuit of Advocates  
 with his hand, and desirit the Lordis to put the samin to execu-<sup>for the poor.</sup>  
 tiooun, off the quhilk the tenour followis : "Chancelar, President,  
 " and Lordis of our Sessioune and Counsell, we gret you hartlie  
 " wele. Forasmekle as we ar daly infestit be the complaint of di-  
 " vers our pure lieges, persegwand for justice, quhilkis are postponit  
 " therfra in defalt of Advocatis to procure for thame, and thai have  
 " na expensis to do the samin ; ffor remeid therof, we have thocht  
 " gude, to the honour of God, for the help of saide pure liegis, that ane  
 " man of gude conscience to that effecte be chosin be you, quhilk  
 " fallbe callit Aduocatus Pauperum, quhem ye fall cauſſe sweire that  
 " he fall administere to all our liegis cumande to him for help, that will  
 " mak faith thai have noctt to perſew justice withall of thair awne,  
 " quhilk Advocate fall have yerlie of our Thesaurare x lib. for his  
 " laubouris ; and that ye put this our ordinance in the bukis of  
 " Counsell,

## ACTS OF SEDERUNT

1535. " Counsell, with the naim of the said Advocate, and therupoun ex-  
 tend ane acte apoun the samin ; and geif the said Advocate beis-  
 fundin fals to ony party, that he be deponit fra his aduocatioune  
 in that and all vthirs matteris, with vther panes as ye think best ;  
 and ane vther chosin be ws in his place, and he to incure the note  
 of infamite, quhill he be recounsalit be ws our successouris ; and  
 at the saide acte beire that, of our commande, our Thesaurare  
 now present, and tocum, fall pay the saide x lib. yerly ; and at  
 our Auditouris of our Chekkere fall allow the samin to him in his  
 comptis, becaus it is to the honour of God, and wele of justice.  
 Subscriuit be ws, at Edinburghe, the last day of Februare, and of  
 our regne the xxij yere.

" JAMES," &c.

Eftir the presenting and reding of the saidis lettrez, the Lordis of  
 Counsale chesit Maister Thomas Marjoribankis, and Maistir Jhone  
 Gledstanis, conjunctlie and severalie, to be Advocatis for all pure indi-  
 gent peple in tymes cuming, quhilk acceptit the said office of advoca-  
 tionue in and apoune thaim ; and swore, in presens of the Lordis, to  
 procure for thame iustly and diligently eftir thair conscience, knawlege,  
 ande vnderstanding ; and ordanis our Soverane Lordis Thesaurare for  
 the tyme to refound, content, and pay yerly to the saids Maister Jhone  
 Gladstanis, the soume of x lib. to be halely tanc wp be him yerly to  
 his behuf, with consent of the said Maister Thomas ; and that the  
 Auditouris of the Chekkere thankfully allow to the said Thesaurare,  
 the said sowme of x lib. yerly in his comptis, conforme to the Kyngis  
 Gracis mynde, and lettrez forsaide.

27 Apr. 1535.

Concerning  
the poor.

THE Lordis ordanis, that forsemikle as our Soverane Lord has  
 directe his writingis to thame, makand mentioune, that his  
 mynde is, that pure miserable persounis fall have mair hasty expedi-  
 tioune of justice nor vtheris, because thai have na substance nor ex-  
 pensis to remane and wayte apoune the table : And to that effect hes  
 constitute and ordanit ane man of law to procure for the pure, to be  
 payit yerlie be the Thesaurare ; desirand thairfore the Lordis to mak  
 provisioune and ordinance, that the saidis pure folkis mycht have ex-  
 peditioune of justice ; thairefor the Lords assignis Friday wolkie for  
 calling of all summondis and actiounis concerning the pure folkis,  
 quhen oportunitate may be had for the Kingis matteris ; and als to be  
 fene and considerit be the Lordis quha are pure folkis be inspectioune,  
 and be the aithe of the Procurator, declarand that thai tak na profit  
 for procuratioun for sic pure folkis.

24 Jul. 1535.

Order by the  
King.

MY Lord Chancelar producit this writing vnderwriting, sub-  
 scriuit be the Kingis Grace, and desirit the samin to be insert  
 in the bukis of Counsell, of the quhilk the tenour followis : " REX  
 " Chancelare, President, and Lordis of our Sessioune, we gret yow  
 " wele.

## OF THE COURT OF SESSION.

25.

" wele. It is our will, and we charge yow, that incontenent after  
" the fycght herof, ye call the summondis rasit at oure instance aganis  
" the Erle of Craufurde, and tenentis of our landis of Murdocarny,  
" and minister justice equalie therin, without dilay, as ye will an-  
" suer to ws therupone. Subscriuitt with our hande, at Striueling,  
" the xxij day of Julij, and of our regne the xxij yere; and that ye  
" ryse nocht fra our Sessioun, quhill the said summondis be callit, as  
" ye will do ws singulare emplessour, for we will that the samin be  
" done.

“JAMES.”

29 Nov. 1535.

THE Lordis of Counsale, havande consideracione of the inemitiie Interim che-  
now standing, as is allegit, betwix Gilbert Erle of Cassillis, his riss appoint-  
kyne, frendis, tenentis, and seruandis, one that ane part, and the schereff  
of Aire, his kyne, frendis, and seruandis, on that vthir part, quhar-  
throw the said schereff, and his deputis chosin be him, are presomit  
in ane part suspecte to be jugis to thaim in thair mattirs ; therfot  
the saidis Lordis, for mesing of sic suspicioune, hes of thair offices create  
James Jhonstone, Thomas Hammiltone, and Jhone Perduven, masseris  
conjunctly and severally, schereff-deputis of Aire, to sit and minister  
justice to the said Erl, his kyne, frendis, tenentis, and seruandis, in all  
accionis and causis concerning thame, and thai to fitt at the Brig of  
Dvne, and to fense courtis, and chese officiaris as thai thing best, and to  
minister justice equaly, as thai will anfuer to the Kingis Grace ; and  
this act to indure fra the xv of Februare nixt to cum ; and lettrez to  
be direkte herapone, geif . . . .

21 Jan. 1535.

**I**N presens of the Lordis of Counsale, comperit Maister James Quorum of Foulis of Colintoun, clerk of registri, and producit our Soue the judges rane Lordis writingis vnder writtin, subscruuit with his hande, and vnder his signet, and desirit the samin to be registrate in the bukis of Counsell, of the quhilk the tenoure followis: " REX—Chancelar, " President, and Lordis of oure Sessione, we gret you wele: Forsa- " mekle as we vnderstande that throw want of ane gret part of " the personis chosin apone our said sete, sum be deceise, sum be " sicknes, and vtheris beand callit at tymes to oure service, baith " within the realme and without, your nomer is oft timez nocht.com- " pleit for geving of decretis and sentences, quharthrow justice is " stoppit and hinderit, to the greit hurt and scaith of our lieges; heir- " for we have dispensit, and be the tenour herof dispensis, with your " nomer in that behalf; that is to say, that ony viij of you, with our " Chancelare or President, fall be sufficient nomere for the geving " of all decretis and sentencis, nochtwithstanding ony actis, constitu- " cionis, or ordinancis maid therupone in the contrare of before; " to the quhilk we mak express dirogacioune be thir presentis, and " ordanis that na excepcioune to be proponit in tyme cuming have " place, or be admittit in the contrare herof; and als will and or-

1535. " danis this our declaracioune be insert in the bukis of Counsale,  
 " to have the strenth of ane acte in tyme cuming. Subscriuit with our  
 " hande, and gevin under our signet, at oure Castell of Strueling,  
 " the ferde day of Januare, the yere of God, i<sup>o</sup> v<sup>c</sup> xxxv yeris, and  
 " of our regne the xxij yere.

" JAMES."

*Sinister pur-  
chasing of  
letters.*

**I**N presens of the Lordis of Counsale, comperit Maister James Foulis of Colintoune, Clerk of Registri, and producit oure Souerane Lordis writing, directe to the Lordis of Sessioune, subscriuit with his hand, and vnder his signet, and desirit the samyn to be insert in the bukis of Counsale, and off the quhilk the tenour followis:  
 " REX—Chancelar, President, and Lordis of Sessioune, we gret yow  
 " hartlie wele,—we haue hard ther is sum murmour of granting of  
 " diuerse wrtingis be ws in stopping of justice, and geif sa be, we are  
 " nocht content therwith, and hade the samin cumin till our eris or  
 " now, we sulde nocht haue falyeit to haue reformat the samin in sa  
 " fere as we sulde do, and as ye understande, for stanching of sic in-  
 " convenientis, and stopping of inopertune solistarlis of ws of sic ma-  
 " teris of before as ware contrare to justice and facile granting of re-  
 " misshounis, we walde haue had sum corporale punicione ordanit for  
 " the doaris therof; for we declare to yow, geif sic thingis cumis,  
 " thai proeide nocht of our knawlege, to the hindering or stopping of  
 " justice, bot of sinister informacione, and of inopertune laubouris of  
 " the impetraris; quherfor we pray you, and als chargis, that ye  
 " admitt na sic wrtingis, bot proeid and do justice evinlie, and do  
 " for your part as we sulde do for ouris, ther fall be na cause of com-  
 " plant amangis our trew liegis in defalt of justice: and als we pray  
 " to ordane sum pvnacione aganis the saidis inopertune solistarlis of  
 " ws, fwa that we be nocht hurt in our conscience throw hindering of  
 " justice to our liegis, as said is; for, had we nocht maid sic ordinance  
 " as is abone wrtingis before, ye mycht think this had cumyn of new  
 " informacioune; bot it is alanelry becaus sic thingis hes bene con-  
 " celit and nocht oppynnit to ws, quhilk hes generit ane sclander to ws  
 " vnkend, quhilk and we had wittin, one na wise walde haue tholit;  
 " and therfor geif ye falye to aduertise vs afterwart quhen sic thingis  
 " occurris, the wyte fall be imput to yow, and nocht to ws, senn ye kenn  
 " our mynd constant for justice; and this we pray yow to do, as ye  
 " walde do ws plessour. Gevin vnder our signet, and subscriuit with  
 " our hande at Sanctandrois the xij day of Januere, and of oure regne  
 " the xxij yere.

" JAMES."

18 Mar. 1535.

*Production  
of Pope's  
bulle. See  
appendix.*

**I**N presens of the Lordis of Counsale, comperit ane venerable fader in God, Alexander abbot of Cambuskyneth, President, in naim of all the Lordis chosin one the seit of Sessioune, and producit our haly fadir the Papis bullis, under the leid of the conseruatorie of the

the College of Justice, quhilkis ar directe to the Bisshop of Galloway, 1536.  
 abbot of Newbottle, and Maister James Kinraig, dene of Abir-  
 dene, provest of our Ladykirk of the Kirkhewch of Sanctandrois,  
 conseruatouris constitute of the faide conservatorie, and publist the  
 samin to thaim, desiring thaim to accept the faide offices in and apone  
 thaim efter the tenour of the said bull; quhilkis reverende and vener-  
 able fader and dene forsaide being present, acceptit the faide office in  
 and apone thaim, and swore lelely and trewlie to minister therin estir  
 thair knawlege and understanding to all persounis indifferently, estir  
 the tenour and effecte of the said bull in all punctis; apone the quhilk  
 the faide President askit instrumentis, hora x.

4 Jul. 1536.

**I**N presens of the Lordis of Counsale, comperit Thomas Scott of Petgormo, Justice Clerk, and producit our Soverane Lordis writings, under his signet, and subscruuit with his hande, and desirit the samin to be opinly rede, and insert in the bukis of Counsell, off the quhilk the tenour followis: " REX—Chancellar, President, and " Lordis of our Sessioune, we greit yow wele, we heir ther is gret " murmure of lettrez grantit private lie be ws in hurt of justice con- " trare diverse personis, and we assure you finister informacion and " inopertune solistacioun gettis sic lettrez be circumvencione, and senn " we have committit the cure of justice to yow, and hes diverse " tymes wruttin our particulare lettrez conforme thereto, chargeing to " admitt na sic private writingis follisit in hindering of justice; or " contrare to the lawis of our realme; we heirfor yit as of before " prayis yow, and als chargis maist effectusly, that nochtwithstanding " ony the said private writingis grantit or to be grantit contrare to " justice, that ye proceid and do justice thereintill indifferently to all " parteis, as ye will ansuer to God and ws therupone; and geif ye " admit ony sic private writingis, the damage and scaith of party fall " ly to your conscience and nocht to ouris, senn we are daly cummerit " therewith, and hurtis our conscience in granting of the samin. " Gevin vnder our signet, and subscruuit with our hande, at Strueling, " the first day of Julij, and of our regne the xxijij yere.

" JAMES."

8 Jul. 1536.

**I**N presens of the Lordis of Counsale, comperit Archibalde Hammil- toune, and producit this writing undir wruttin, and askit instrumentis therupon, and als the Clerk of Registri for him, and the Justice Clerk asked instrumentis inlikewise thereof; of the quhilk the tenour followis: " REX—Chancellar, Precedent, and Lordis of " our Counsale and Sessioune, we grete yow weile, forsamekle as the " mater betwix Archibalde Hammiltoun, as assignay to the tennentis of " Symontoune, aganis Jhone Somervale of Cambusnethen, was at " our desire and command compromittit in our dailie familiare ser- " mitouris,

1536. " uitouris, Maister James Foulis, Clerk of our Registre, and Thomas Scott, our Justice Clerk, and in ws as our mann, and the said Jhonne, as we are informit, will nocht be content to compromitt all materis debatable betwix him and the said Archibalde and the Lard of Anestoun, as we wrate to our said seruitouris of befor ; oure will is, and we pray yow richt effectuiflie, and als chargis, that ye proceid and call the summondis raisit at the instance of the said Archibalde, as assignay forsaide, aganis the said Jhonne Somervale, nochtwithstanding the said compromitt maid betwix thaim, as said is, of the quhilk we discharge ws and our said seruitoris, and referris the defisioune thairof to yow, and that ye do justice to baith the saidis partiis in the saidis materis, as ye will ansuer to God and ws therupoune. Subscriuit with our hande, at Temptalloune, the vi day of Julij, and of our regne the xxijij yere. Obey this precept gif the said Johnne refusis that is aboune writtin.

" JAMES."

28 Jul. 1536.

Supersedere,  
by letters  
from the  
King.

**I**N presens of the Lordis of Counsell, comperit Robert Bertoun of Overbertoun, and producit our Soverane Lordis writing, subscrultiit with his hande; and under his signet, and desirit the samin to be registrate in the bukis of Counsele, one his expensis; the quhilk desire the saidis Lordis thocht resonabile, and therfore ordanis the samin to be insert in the saidis bukis, off the quhilk the tenour followis : " James, by the grace of God, King of Scottis, to all and sydry our lieutennantis, justices, justice-clerkis, stewartis, crovnaris, and thair deputis, provestis, aldermen, ballies of our burrowis, jugis and ministeris of our lawis, spirituale and temporale, within our realme, present and to cum, lieges and subditis, quham it efferis, quhais knowledge thir our lettres salcum, gretting : Witt ye, that forsamekle as our louit familiar Robert Bertoun of Ovir Bertoun is now to depart with ws furtht of our realme, quhen we pleis, in our seruice, with his substance and gudis, howbeit he be of gret age, febill, and vaik in persoune; tharfor we, for speciale grace and favouris, hes takin, and be thir presentis takis, the said Robert, his vif, barnis, sonis, frendis, men, tenentis, seruandis, familiaris, procuratouris, factouris, and fermoraris, under our special respect, supersedere, manteinance, saufgarde, and saufconduct, to be vnhurst, vnharmit, vnlawit, vnmolestit, vntrublit, vnaccusit, and vnpersewit, ony maner of way, ceuelie or criminalie, in thair personis, landis, heritage, takkis, stedingis, rolmis, possessiounis, gudis, moveable or vnmovable, present or tocum, for quhatsumevir actiounie or caus bigane, bot the samin to ces and rest quhill our returning and hamecuming, and the said Robert, agane within our realme, and xl dais thereafter. And attour, we, vndirstanding and haifand consideracioun that the said Robert had for him ane decree of the Lordis of our Confale, that he fulde pay nane of our creditouris quhill he were first pait of ws of the sowmes we aucht to him, quhen " it

1536.

" it is allegit he deforcit certane our officiaris in execucione of their  
 " offices, poyndande his gudis, be vertu of our vthir lettres, direct at  
 " the instance of Duncane Dawfoune, for certane sownes allegit  
 " aucht be him to the saide Duncane, for our det; and that the saide  
 " Robert commitit nocht the saide deforcement, gif ony wes, of set  
 " purpos, bot alanelie confidinge and traistinge the said Lordis de-  
 " cret, and executorials past therupone, mycht be his warrant:  
 " Therefoir, and for his gude, trew, and thankfull seruice doing to  
 " ws, and vthirs resonable cauffis and consideratioonis moving ws, we,  
 " be thir presents, remittis and forgevis to him all actioun and cryme  
 " that we can or may clame or ask of him throw the said allegit de-  
 " forcement, and renuncis and dischargis the famin for evir; and  
 " fiklik, our instance and persute of the summondis and actioun now,  
 " dependande and rasit aganis him therfor, and all thing that we  
 " may clame therthrow; and, nochtwithstanding this our faufgard, *su-*  
*percedere*, and respette, gevin be ws to the faide Robert, and his, as  
 " said is, we will and grant, that his procuratouris haif place to per-  
 " few, in his name, ony actiounis civilis, aganis quhatsomevir per-  
 " sounis, begun or to be begun, and that to be na preuidice or hurt  
 " to this our faufgard and respette, ony maner of way, bot the famin  
 " to stande in strenth and effect, insafer that he fall nocht, nor his,  
 " compellit to ansuer to ony person or personis, during all the tyme  
 " thereof: Quharfor, we charge straitlie and command yow, all  
 " and sundry our officiaris, jugis, and ministeris of law, liegis, and  
 " subditis forsaidis, that nane of yow tak apoune hande to do or at-  
 " tempt any thing in contrar violacioun or breking of this our spe-  
 " ciale respette, supercedere, and faufgarde, in ony wise, in tyme  
 " cuming, during all the tym therof, dischargeing yow, and ilk  
 " ane of yow, of the famin, and of your offices in that part, be thir  
 " presentis; and als dischargis yow, and the Lordis of our Counsale  
 " and Sessioune, of all accusatioun, calling, and proceeding aganis the  
 " said Robert, for the said allegit deforcement remittit be ws to  
 " him, as said is, and all thing that we may clame therthrow,  
 " and of your offices in that part, for evir, be thir our lettres, for  
 " the cause forsaide. Subscriuit with our hande, and vndir our signet,  
 " at Pettinweme, the xxii day of Julij, and of our regne the xxij  
 " yeir.

" JAMES."

12 Aug. 1536.

A NENT our Souerane Lordis lettrez, purcheſt at the instance of Reference to the King.  
 A nne venerable fadir in God, James Abbot of Dryburghe, aganis the King.  
 David Haliburton, that quhare the said David has purcheſt our Souerane Lordis lettrez, to restore him to his possessioune of all his malingis quhilk he had of the said abbay, and keip and defend him therin, he beand lauchfullie warnit to flitt, and ordourlie put therfra, and to cause him to be ansuerit of the cornys that the said venerable fadir and vtheris few theron; and gif he, his convent, or ony vtheris,

## ACTS OF SEDERUNT

**1537.** vtheris, stoppis the said David therin, to charge thame to ceiss thar-fra, vndir the pane of rebellioune ; and gif thai falye, to put thame to the horne ; quhilkis lettres ar past be finistre and wrang informacioun, without cognicioune in the cause, the said venerable fadir nevir being callit therto, ande ar unordourlie procedit ; and anent the charge gevin to the said David to produce the saidis lettrez, to be sene and considerit, gif thai be ordoure lie procedit, and conforme to justice, or not, that justice may be administrit, as at mare lenthe is contenit in the saidis lettrez. The said venerable fadir beand personalie present, and the said Haliburtonne comperand, be Walter Haliburtonne, his sonne, quha producit ane writing vndir our Souerane Lordis subscripcioune, directe to the Lordis of Counsale, berande, in effect, that the said venerable fadir had referrit that mater to his Hienes, and that he had gevin ane sentence and decree therintill, and therfor puttaud inhibicioune to the Lordis to intromitt therwith ; and the saidis Lordis beand advist therewith, referris the said mater to the Kingis Grace, and to be decidit be him as his Hienes thinkis expedient ; and lettres to be directe herupoune, as efferis.

16 Nov. 1537.

Concerning  
justice  
courts.

**T**HE Lordis of Counsale vnderstanding, that, in tymes bypast, particular diettis of justice courtis hes bene sa frequent and oft visit in this realme, quhilk hes bene ryght tediis, nevsome, and sumptuous, to all our Souerane Lordis legis, throw arresting, summoning, and convencioun of thame, to great nomer, owt of the far partis of the realme : Tharfor, for eschewing of sic inconvenientis, swa that our Souirane Lordis legis be nocht put to frustret lawbour, besines, and expense, throw coloure of sic particular justice courtis in tymes cuming, ordanis, that na particular justice court nor diet be sett, effixit, nor haldin, within this realme, for ony allegit oppres-sionis, or crimes committit or done be ony maner of perfounis in tymes cuming, without desire of the thesaurar, with avise of the Lordis of Counsale in that behalf.

*Eod. Die.*

Proclamation  
for holding a  
Parliament.

**T**HE Lordis, forsamekle as the Kingis Grace thinkis expe-dient that ane Parliament be proclemit and haldin in this towne of Edinburghhe, for certane gret materis to be proponit and di-scidit be the thre estatis of this realme : Therfor, ordanis the samin to be proclemit to begyn and be haldene in Edinburghhe the xi day of Marche nixt to cum, and als that all prelettis, baronis, and commis-sionaris of borrowis, comper the said day, be warnit be preceptis of chancelare, to compere the said day for thair avise, and counsale, and determinacioune, to be had in matirs to be proponit in the said Par-liment, concerning our Souirane Lordis proper effaris, commoune vele of the realme and legis.

## OF THE COURT OF SESSION.

31

22 Nov. 1537. 1537.

**M**AISTER HEW RIG askit instrumentis, that the Lordis chargit <sup>Protest by</sup> and compellit him to procure for Jhone Leslie to defende his <sup>an advocate</sup> rycht, geif he ony hes, concerning ane pensioune of the benefice of <sup>who was or-</sup> Sanct Mary Ile; and thairfore protestit, sene the Lordis compellit <sup>dered to ap-</sup> him to procure in the saide mater aganis the Kingis grace, that na <sup>pear against</sup> the King. wite, reproche, nor cryme, be imput to him thairfor, considering it is be compulsione, and obedience that he auchte to the commande of the saidis Lordis, and na otherwise. Hora xi.

21 Jan. 1537.

**I**N presens of the Lordis of Counsell, comperit Maister James Foulis <sup>Concerning</sup> of Colintoun, Clerk of Registri, and producit this writing under-<sup>the prelates.</sup> writting, subscriuit by the Kingis grace, and desirit the famin to be registrate in the bukis of Counsell, and to have the strenthe of an acte of the saidis Lordis in tyme tocum. The quhilk desir the said Lordis thought reasonable; and, thairfor, ordanis the famin to be registrate in the said bukes, and to have the strenthe of thair decret in tyme tocum. Off the quhilk the tenour followis: "REX.—Chancelar, Presi-  
" dent, and Lordis of our Counsell and Sessioune, we greet yow weill;  
" forsamekleas it was thocht be you necessar and expedient, that  
" all prelatis, quha will thankfullie pay the contribucioune proffittit  
" be thame to the wpholde of our faide fete, one to the tyme that the  
" benefecis waik that ar assignit be thame therto, fulde haif thair  
" materis priuilegit to be callit in ane tabule ouklie one the Setterday,  
" and als fra the tyme thair benefecis waik, and the proffittis therof  
" cum to your vse, to haue fra thyne furthe sic lik priuilege, and be-  
" cause we war absent at that tyme furth of our realme, and the said  
" ordinance culd haif na effect without our consent and confirma-  
" cioune, the quhilk ordinance we think reasonable, not alanelie for  
" the saidis prelatis materis, bot als your awin materis, and tharis  
" that fall happen in tyme cuming to be chosin apone our said seit  
" of Sessioune, for cause of your continuall lawboris; we heirfor will  
" and ordanis all the saidis prelatis materis, and als your materis, and  
" the materis of thame that fall happen to be chosin vpon our said  
" seit of Sessioune, to be priuilegit, and to be callit owkly, in ane  
" tabill be thame self, vpone the Setterday. And this our ordinance  
" and constitucion to be extendit, als well to all summondis rasit, as  
" to be rasit, without derogacioune to the callin of the common tabille  
" that semmyn day, conforme to the acte maid therupon of before;  
" and that nane prelat fall brek the priuilege of this our ordinance  
" and constitutione, bot thai that will giff thair obligacioun, and makis  
" thankful pament yerlie of the contribucioune, and sowme assignit  
" be thame on to the tyme the benefice waik, and the proffittis  
" therof cum to your vse. The quhilk this our ordinance and consti-  
" tucioune, we will be present in our bukis, to haif the strenth of ane  
" acte. Subscriuit with our hande at Linlithquow, the thrid day of  
" the

1537. "the moneth of Januer, the yeir of 1<sup>m</sup> v<sup>e</sup> and xxxvij yeris, and of  
our regne the xxv yeir."

" JAMES."

8 Feb. 1537.

Order from  
the King to  
delay pro-  
ceeding  
against sure-  
ties.

**C**OMPERIT Jhone Swyntoun of that ilk, and Dauid Rantoune of Billy, as cautionaris for Jhone Hume of Blacader, and producit our Souerane Lordis lettrez, subscruuit with his hand, and desirit the famin to be registrat in the bukis of counsale, and protestit that thai fuld not be haldin to ansuere to the Kingis grace, his thesaurar and advocate as souerties forsaide, onto the tyme thai be of new summonde. Off the quhilk lettrez the tenour followis: "REX—  
" Chancelar, Thesaurar, President, and Lordis of our Sessioune and  
" Counsell, we greit yow well; forsamekle as we are informit that our  
" vtheris lettred are directe apone certane personis, quhilkis was  
" souerteis and caucionaris for Jhone Hume of Blacader, that he fulde  
" remane and byde furth of our realme for certane space, like as is  
" contenit in the band maid thairupone, and that ye intend to call  
" the said souerteis and caucionaris, and condampne thaim in the  
" panis and sowmez contenit thairintill. Our will is heirfor, and  
" we charge yow that ye desist and ceifs fra all calling of the saidis  
" souerteis, and proceeding aganis thaim in ony maner of sort thair-  
" for, induring our will, for the quhilk we will that the saidis lettrez  
" be vncallit, discharcheing yow, oure saide thesaurar, and Lordis of  
" our Sessioune forsaide thairof, and of your officez in that part in-  
" during our will, as said is, be this our writing; and this ye fale  
" nocht to do as ye will ansuer to ws thairupone. Subscriuit with  
" our hande at Strueling, the viij day of Februare, and of oure  
" regne, the xxv yere."

" JAMES."

19 Feb. 1537.

Privilege of  
advocates. **I**N presens of the Lordis of Counsale comperit Maister Thomas Marioribankis, and gaif in this writing vnderwrittin, subscriuit be the Kingis grace, and desirit the famin to be registrat in the bukis of counsale, off the quhilk the tenour followis: "REX—Chancellor,  
" President, and Lords of our Sessioune, it is our will and consent,  
" that the advocattis admittit and sworne to await apone the pursewing  
" and defending of sic matteris as cumis befoir you in our sessioune,  
" vfe and joiss in all thair propir actiouns, sic priuilege and ordour  
" of tabille as we have ordanit for the prelettis and for yourselfis, in  
" your awne actiouns. Subscriuit with our hand at Strueling the  
" xvij day of Februare, and of our regne the xxv. yere."

" JAMES."

23 Feb. 1537. 1537.

**C**OMPERIT Maister Dauid Painter, and producit at the Kingis Production Grace commande certane bullis of our haly fadir the Paip, of the Pope's certane priuilegeis grantit be his halynes to his hienes, and to the college of justice, and desirit the samin to be put in the Kingis grace bulls in favour of the registri, to be kept thairin, and deliuering the samin to the Clerk of Registri, in presens of the Lordis; off the quhilk bullis the names followis: Ane bull of perpetual extension of the priuilege of nominacione of the kirkis and abbacyis, for ane hale yere eftir the vacance of the samin; Ane bull of indulst for wptaking of the frutis of the kirkis and abbacyis, for ane hale yere eftir the vacance; ane processe and executorialis thereupoune; Ane bull of confirmacione of the college of justice, with exempcioone and faculte of sustentacione of the samin; Ane bull of dispensacione of the Kingis Gracis naturale sonnis: off the produccione of the quhilkis, and deliverance of the samin, vnrifit, vncassit, hale and cleire as thai war resfauit, the said Master Dauid askit instrumentis; hora nona.

*Eod. die:*

**M**AISTER HEW RIG, procuratour for my Lord Borthuik, askit Order by the instruments that he producit the Kingis Grace writing, vnder King concerning a his signet and subscripcione, and desirit the Lordis to insert the samin cause. in the bukis of counsell, off the quhilk the tenour followis: "REX—  
 " Chancelar, President, and Lordis of our Counsell and Sessioune, it  
 " is our will that ye desist and ceiss fra all proceding aganis our cou-  
 " sing, the Lorde Borthuik, at the instance of the Archibischop of  
 " Sanct Androis, anentis the stedis of Stow, for we haue tane the samin  
 " on ws be our haly fadir the papis breif direkte to ws therupone,  
 " and thairfor will noctit it be forthir pleit, bot to remane in our  
 " handis to be amicably aggredit for wele of thaim baith. Subscriuit  
 " with our hande, and under our signet, at Strueling the xij day of  
 " Februare, and of our regne the xxv yere. JAMES." Therefor, the  
 " Lordis thocht thai culd noctit proeid in the mattir, becaus of the in-  
 " hibicione forsaide, quhill thai get farther charge.

25 Feb.

**I**N presens of the Lordis of Counsell, my Lord Chancelar producit Order to ad-  
 the Kingis Grace writing, subscriuit with his hande, and under his mit Mr. Wil-  
 signet, and be vertu of the samin, tuk aith of Maistir William Lamb liam Lamb  
 to keip counsell of all thingis to be done before thaim, off the quhilk to hear and  
 the tenour followis: "REX—Chancelar, President, and Lordis of our understand  
 " Sessione, we gret you wele: Forsamekle as we think our louit clerk,  
 " Maistir William Lamb, persone of Conveth, ane able and qualifeit  
 " persoun, to be with you in our Sessioune, to heir and vnderstande the  
 " practik, that he may be the mair able efterwart to serue ws therein,  
 " and vtherwyis, praying you heirfor to admit him to sitt with you  
 " daly in our Sessione, to heir sic thingis as occurris ther dalie for  
 " the

## ACTS OF SEDERUNT

1537. " the tyme, to the effect forsaide, takand his aith to be secret and  
 " trew as the remenant, quharintill ye fall do ws gret plessur. Sub-  
 " scriuit with our hande, and vnder our signet, at Glaigw, the ferde  
 " day of Februar, and of our regne the xxv yeir."

21 Mar. 1537.

*Supereedere  
in favour of  
Sir John  
Campbell of  
Lundy.*

SCHIR JHONE CAMPBELL of Lundy, Knycht, askit instrumentis  
 of the produccioun of the Kingis Grace writing, direete to the  
 Lordis of Counsell, and desirit him to be reponit in the place that he  
 wes in of before, conforme to the said writing, off the quhilk the te-  
 nour followis : " REX—Chancelar, and Lords of our Sessioune, we greit  
 " yow hartlie wele: Forsamekle as we have certane besynes ado with our  
 " familiar seruitour and Counsalour, Schir Jhone Campbell of Lundy,  
 " Knycht, for ane schort space, we pray yow haue his absence excusit,  
 " quhill we send him to yow, or quhill our cuming. And, in the  
 " meyntyme, continew all materis concerning him, and thaim that  
 " he dois for; and geif ther be ony thing done sene oure tother  
 " writings, send to yow anentis him, at ye reintegre him as he was of  
 " before our writing, becaus his absence hes bene for causis concerning  
 " ws. Subscriuit with our hand, at Strueling, the x day of Februare,  
 " and of our regne the xxijij yeir.

" JAMES."

*An order of  
the Court  
thereon.*

IT was allegit be Schir Jhone Campbell of Lundy, Knycht, as pro-  
 curatour for Katryne Barclay, that he aucht and fulde be put  
 in the famin place that he was in before the geving of the interlocu-  
 tour aganis the said Katryne, confidering he was in the Kingis seruice  
 quhen he fulde have defendit the faide matter, and mycht nocht cum  
 fra his seruice, and therfor na forther proces fulde be maide vnto  
 the tyme he ware reponit thereto. The Lordis, be sentence interlocu-  
 tour, decernis, that thai cann nocht repone na persounie, and specialie  
 ane procuratour, in the place that thai haue neglegentlie tint, the in-  
 terlocutour gevin be thaim of before aganis him standande unreducit,  
 without consent of party; and also, decernis the said proces to be  
 aduisit, and sentence to be gevin therin, conforme thereto, nocht-  
 withstanding the allegiance of the faide Schir Jhone. Apone the  
 quhilk, Maistir James Foulis, Clerk of Registri, askit instrumentis.\*

27 Ma.

\* It is observed by Lord Pitmeddan, p. 32 of his MS., that Sir John Campbell, al-  
 though one of the Lords of Session, was allowed to appear as procurator for Katharine  
 Barclay, in the case above mentioned. Other instances are mentioned in p. 36.

27 Ma. 1538.

**M**Y Lord of Kinloss askit instrumentis of the produccione of Order by the  
 the Kingis Gracis writing vnderwrittin, subscruuit with King con-  
 his hande be Alexander Dunbar of Cumnok, as he allegit, be the <sup>cerning a</sup>cause.  
 Kingis Gracis commande, gevin to him in that behalf, directe to the  
 Lordis of Counsell, and therfor desirit the famin to be insert in the  
 bukis of Counsell, on his expensis, swa that the impetraris of sic writ-  
 ingis may be considerit be his Grace heireftir ; off the quhilk the te-  
 nour followis : " REX—Chancellare, President, and Lordis of oure  
 " Counsell and Sessioune, we greit yow hartlie wele : Forsamekle as  
 " it is done ws to vnderstande that we haue rycht to the fischingis ap-  
 " one the wateris of Findorne, and that the famin is wranguisly  
 " withholding fra ws be Robert, abbot of Kinloss, and convent of  
 " the famin, the toune of Fores, and vtheris, and the xxvij day of  
 " Maij instant was assignt be ws to all parteis to schaw thair rychtis,  
 " defencis, and euidentis ; and it wes thocht be ws that our Secretar,  
 " Maister of Houshalde, Justice-Clerk, and vtheris that we pleise deput,  
 " fulde haue bene, for our part, at the seying and consideracioune of  
 " the saidis rychtis and euidentis, and now, for oure greit besynes in  
 " Sanct Androis, thai mycht nocth keip the faide terme : Quherfor, it is  
 " our will, and we pray yow rycht effectuifly, and als requiris and  
 " chargis, that ye, at the said xxvij day of Maij, assigne ane certane  
 " day to baith the saidis partyis to compere before yow, oure familiaris  
 " forsaide, and vtheris quhem we pleiss deput therto, in Sanct An-  
 " drois, and continew the said mater in the meynytme, and ordane  
 " baith the saidis partyis to compere thar the saide day, bringing  
 " with thaim thair defencis, rychtis, and euidentis, as thai will tyne  
 " and wynne in the cause, and als ressauie thair euidentis and writingis,  
 " and deliuier thaim to our Clerk of Registri, to be keptit be him clos  
 " to the saide day, as he will ansuere to ws ; dischargeing yow vther-  
 " wyis of your office in that part, and warne our aduocate to keip  
 " the faide terme for our part. This ye do, as ye will ansuer to ws  
 " therupoune. Subscriuit with our hande, at Perth, the xxvi day of  
 " Maij, and of our regne the xxv yere.

" JAMES."

31 Jul. 1538.

**I**N presens of the Lordis of Counsale, comperit Schir Thomas Er- Concerning  
 skin of Brechin, Knycht, secretar to our Souerane Lorde, and <sup>the King's</sup> processa  
 producit this writing vnderwrittin, and desirit the famin to be in-  
 sert in the bukis of Counsale ; of the quhilk the tennour followis :  
 " Chancellar, President, and Lordis of our Sessioune and Counsale,  
 " Forsamekle as ther is divers summondis raisit at our instance,  
 " quhilkis, gif thai be supersedit, and remain vncallit vnto your nixt  
 " feit and convencioune, thai are able to be expirit, and we to tyne  
 " large proffitt therthrow : Quharfor, we pray yow, and als chargis,  
 " that

## ACTS OF SEDERUNT.

1538. " that ye mak ane acte in your bukis of Counsale, that all summondis  
 " that are raisit at our instance, siclike as pleissis our thesaurare to de-  
 " fire to be callit, be callit now in tyme of vacance, and siclike the  
 " materis of strangelaris, conforme to the vse and consuetude vfit and  
 " kepit in tymes bypast in sic mater; providing alwayis that the  
 " partiis be warnit therto. Subscriuit with our hande, and gevin-  
 " vnder our signet, at Edinburghe, the xxvi day of Julij, and of our  
 " regne the xxv yere."

20 Decem. 1538.

Order by the  
King con-  
cerning a  
cause.

**M**AISTIR HEW RIG, procuratour for Isobell Hoppar, the re-  
 list of vñquhile Archibalde Douglas, askit instrumentis of the  
 produccione and the contentis of ane writing subscriuit be the Kingis  
 Grace, product be James Spens, off the quhilk the tenour followis :  
 " REX—Chancelar, and Lordis of Cessioune, we gret yow wele, for-  
 " famokle as our louit seruitour James Spens hes ane mater depend-  
 " and before yow, at the instance of Elizabeth Hopper; and als we  
 " are informit ye intend to proceid in the said mater, herfore it is  
 " our will, and for certane consideraciounis moving ws, that ye con-  
 " tinue the said mater for ony calling or proceeding quhill our cum-  
 " ing to Edinburghe, and than we shall advertise yow our mynd; and  
 " this ye do. Subscriuit with our hande at Falkland, the xvij day of  
 " December, and of our regne the xxvj yere.

" JAMES."

*Eod. Die.*

Supercedere.

**M**AISTIR HEW RIG, prolocutour for William M'Ge of Bal-  
 mage, askit instrumentis of the produccione of this writing  
 vnderwrittin, subscriuit be the Kingis Grace, off the quhilk, the tenour  
 followis : " REX—Chancellor, President, and Lordis of our Coun-  
 " sale and Sessioune, we greit yow wele, forsamekle as William M'Ge  
 " of Balmage, hes rasit summondis aganis our louit familiar seruitour  
 " James Gordone of Lochinver, apone his heretage, to ansuer to the  
 " quhilk he may nocht tary at this tyme, becaus he is and moine be  
 " in our seruice with ws quhill efter Yule, and ryde with ws at this  
 " tyme our the watter;—Our will is herfor, and we pray yow rycht  
 " effectuily, and als requiris and chargis, that ye supercede, delay,  
 " desist, and ceiss fra all calling of the said summondis aganis the  
 " said James, quhill the xx day of Januare nixt tocum, for the cause  
 " abone writtin. Subscriuit with our hande at Edinburgh the xiiij  
 " day of December, and of our regne the xxvi yere.

" JAMES." *Hora undecima.*

20 Jan.

20 Jan. 1538.

1539

**A**NENTIS our souerane Lordis writing direc<sup>t</sup>e to the Chancelare, Order for admitt<sup>ing</sup> his President, and Lordis of Counsale and Sessioune, berand in effect to admit Maister Henry Lauder, aduocat to our Souerane Lord<sup>Majesty's advocate to be present at advising causes.</sup> to sitt and remane in the Counsale-hous to heir and see the deliuering of billis, geving of interlocutouris, decisionnis, and determinaciounis of all causis and accioounis, sua that he may heir and knew sik thingis as fall happen to occur that concernis ws, apone the quhil<sup>k</sup>is the saidis Lordis callit the said Maister Henry, and resauit his aithe to be secret, after the forme and tennour of the said writing, off the quhil<sup>k</sup> the tennour followis: " REX — Chancelar, President, and Lordis of our " Counsale and Sessioune, it is our will, and we charge yow, that in- " continent after the sycht herof, ye admitt our louit familiar clerk, " Maister Henry Lauder, our aduocat, to sitt and remane in our " Counsal-hous, to heir and see deliuering of billis, geving of inter- " locutouris, decisionnis, and determinacionis of all causis ande accionis, " sua that he may heir and knew sik thingis as fall happen to occur " that concernis ws, exceptand always the accioounis and causis, for " the quhil<sup>k</sup>is he beis aduocat and speikis for at the bar alancerly. " Subscriuit with our hande, at Edinburgh the xij day of Januare, " and of our regne the xxvi yere.

" JAMES."

14 Feb. 1538.

**M**AISTER JAMES FOULIS, Clerk of Registre protestit in oure Protest a- Souerane Lordis behalfe, priuelege of his realme and seite of justice, that his Grace nor his Lordis of Counsale be not astrenyeit to obey ony inhibicionis fra ony juge spirituale, bot that thai mai pro- ceid in ony mater, and gif lettres conforme to justice, as the vse hes bene in tymis bigane, notwithstanding the pretendit inhibicioun maid be Maister Hew Lindiffay.\*

20 Feb. 1538.

**T**HE Kingis Grace, with auise of the Lordis of Counsale, hes dif- pensit, and dispensis, with all our Souerane Lordis justice, jugis, and all vtheris his officiaris for halding of all temporale courtis, nocht- withstanding the sett of Parliament now instantly rynnand ; and that thai proceid and minister justice in all acciounis, siclik as the said Par- liament ware vndir continewacion ; and that lettrez be directe her- apoune to mak publicacioune, geif neide be.

23 Feb. 1539.

**M**AISTER HENRY QUHITTE, dene of Brechin, askit instru- mentis of the produccioun of this wr<sup>t</sup> vnderwrittin, sub- scriuit with the Kingis Grace, and vnder his signet, and defrit the

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\* No trace of the proceeding here referred to has been found in the record.

## ACTS OF SEDERUNT

1539.

samin to be registrate in the bukis of Counsell, of the quhilk the tenour followis: " REX—Chancellar, ande Lordis of our Counsale and Cessioune, we grete yow weil: Forsamekle as oure weilbelouit clerk and counsalour Maister Henry Quhite, dene of Brechin, hes done leill and trow seruice to our fader of gude mynde, quhem Gode affolye, and als to ws in our tyme, ande chosin be ws to be vpoune our Counsale and Cessioune of ane of the first that wes chosin, and as continewit, ande continews thareupoune, and now he is of age and subdite to infirmities, swa that he may nocht continewalie tary vpoun our Counsale and Cessioune, like as he wes wont to do; heir for it incumbis to ws of our hie maiesty ryale, that quhat euer he be that makis to our forbearis and ws gude leill and trew seruice, that we fulde remember thairupoune, quhairfor we haif dispensit with him of his continewale seruice in tymes tocum in our Counsale and Cessioune, bot at his awin plessour, ande quhen he may vaik thairupon; heirfore our mynde is, ande we will, that our faide clerk ande counsalour, considering his leill, trew, and gude seruice done in tymes bigane, that he joiss all priuilege in persoune and gudis, and pencioune, as ony of our Counsale and Cessioune broukis or is to brouk, and cheifs the samin for his lifytyme, siclike as he war daylie present as of before, makand residens vpoune our Counsale and Cessioune, and that he be admittit thereto, esfir the forme of this our writing gevin vnder our signet, ande subscriuit with our hande, at Edinburgh, the first day of Marche, ande of our regne the xxvi yeir.

" JAMES."

11 Mar. 1539.

<sup>or making a new signet in  
ace of one which was  
len.</sup> IN prefens of the Lordis of Counsale, comperit Maistir Henry Sinclair, persoune of Glasgw, and producit our Souerane Lordis letter directe to his Secretar vnder his privey sele, and subscripcione manuale, and desirit the Lordis to be auisit therwith, and to geif thair counsale and avise to the Kingis Grace therin; off the quhilk the tenour followis: " REX—Secretar, becaus we vnderstande that it is necessar ther be thre small signettis for seruice in our Sessioune, Justice-aires, and for our awne direcciounis;—Our will is herfor, and we charge yow, that incontinent efter the sycht herof, ye caus mak ane thrid signet in place of it that was stollin, to be vsit in our seruice, as said is, and to reforme the vther thre signettis gret and small as sall be thocht expedient be the Lordis of our Counsale, and for the mair securite of your warrande, ordane this our charge to be insert in the bukis of Counsale, to be extracte to yow in forme of acte: subscriuit with our hande, and gevin vnder our privey sele, at Linlithqw the viij day of Marche, and of our regne the xxvij yeir." Therfor the Lordis of Counsale, conforme to the Kingis Gracis mynde and charge, thinkis necessare that ane new litle signet be maid in place of the signet that is stollin, and that the vther twa litle signettis, and the grete signet, be all maid new

of

of gold, and that twa of the saidis little signettis, that fall serue the Sessioune and Justice-airis, be baith of ane quantitie, and the thrid, that fall serve the Kingis Grace directiounis, be sum part mair nor the tother tua, and that the Kingis Grace armis with an clos croune be gravit in thaim without ony worde, and that siclik be gravit in the greit signet, with the clos croune, and the Kingis Grace or-dour of the mollettis and thrissellis about the schelde fra the nukis of the croune, and without ony word or vther thing in ony of the saidis signettis; and the saidis signettis beand maide, that the aulde be destroyit and brokin in presens of the Kingis Grace, or Lordis of Counsell.

1540.

*Eod. Die.*

**M**AISTER RECHERT BOTHUELL, persoune of Erskin, askit Dispensation instrumentis that he producit this writting of the Kingis Grace, with the attendance of one of the counsulur Maister Rechert Bothuell is gretlie trublit be infirmate and seiknes, swa that he is nocht so able to continew our seruice, and to remane with you continewelly as he was wont, herefor we, movit of gude consideracioun, and rememberand his aulde and guid seruice dune to ws, and to our derrest fader quhome God assolye, relaxis him, and grantis to him our gudewill leif ande licence to kepe him self fra labouris and inquietacioun, qubill Gode sende him his perfyte heill ande strent; becaus we knew that he is of gude mynde thane to continew ande to do ws seruice as he wes wont to do before, we grant him that he fall brouke for all the dayis of his life, all sic honouris, digniteis, priuilegis, and exempcionis, with all vtilite and proffittis that our haly fader the paip and we hes grantit to thame that daily sittis on our seit. Gevin vnder our signet, and subscripcioni manuall, at Edinburgh, the xxijij day of Februare, ande of our regnne the xxvij yeir.

“ JAMES.”

16 Jul. 1540.

**M**AISTER DAUID RAMSAY askit instrumentis that Maister William Scott producit ane writting, subscriuit be the Kingis Grace and vnder his signete, to delay the calling of the summondis rasit be him aganis William Scott of Balwery, Knycht, for viij dayis nixt eftir the dait therof, quhilk writing wes producit this day at ellewin howris daitit at Sanct Androis the xvi day of Julij, and of the Kingis Grace regnne the xxvij yere, of the quhilk the tenour followis: “ REX—President and Lordis of our Counsale, we grete yow weill: Forfamekle as our louit Schir William Scott of Balwery, Knycht,

Letter of supersedere.

## ACTS OF SEDERUNT

1541. " Knycht, at our commande, hes remanit continewly in our service  
 " with our derrest fallow the Quene in Sanct Androis, and is callit be-  
 " fore yow at the instance of diuerse parteis for syndry accionis, and  
 " therfore mycht nocht prouide for his richtis, nor cum for defence of  
 " his iuste materis; in the menetyme oure will is heifore, and we  
 " charge yow, that ye decift and ceifs, superceide ande delay, all calling  
 " and proceding aganis the saide Schir Willian, at the instance of  
 " qwhatsomeuir partiis, for ony accionis movit be thaim aganis him,  
 " for the space of viij dayis nixtocum estir the day of the dait  
 " heirof, to the effect that he may, in the menetyme, prouide for his  
 " defensis, and mak gude wayis, and agre with his partiis, as ye will  
 " ansuere to ws therupoune. Subscriuit with oure hand, ande vnder  
 " our signete, at Sanct Androis, the xvi day of Julij, and of our regne  
 " the xxvij yeir."

15 Jul 1541.

Letter of  
supercedere.

**I**N presens of the Lordis of Counsale, comperit Archibalde Betouno  
 of Capildray, and producit this writting vnderwrittin, subscriuit  
 be our Soverane Lord, and desirit the samin to be insert in the bukis  
 of Counsale, of the quhilk the tenour followis: " Chanceler, Pre-  
 " fident, and Lordis of our Counsale, we gret yow wele: Forsamekle as  
 " we haif presentlie directit our countis David, Cardinale of Sanct  
 " Androis, &c. to the partis of France, and therfor hes grantit to  
 " him and certane vtheris his kynnismen, frendis, and seruandis, our  
 " safegard and resput qubill his returning agane within our realme,  
 " and xi dais thereafter, as at mare lenth is contenit in the samin, our  
 " will is herefor, and we charge yow straitlie, and commandis, that ye  
 " admist our said respute and safegard to all the personis contenit  
 " therinill, and speciallie to all tham that ar departit, or till de-  
 " part, actuallie with him, and dischargis yow of all proceeding  
 " aganis thame, and of your office in that part, conforme to the said  
 " respute, and mak na impediment thereto, for we will ye do the samin  
 " as ye will ansuere to ws thorupoune. Subscriuit with our hand,  
 " at Edinburgh, the xiiij day of Julij, and of our regne the xxvij  
 " yeir.

" JAMES."

The Lordis of Counsale hes sene the respute forsaide, and admittis  
 the samin conforme to this writting forsaide, in safar as thai aucht  
 vpoune law, vpoune the quhilk the said Archibalde askit instru-  
 mentis.

30 Jul. 1541.

Letter di-  
recting the  
Court to  
proceed in a  
cause.

**I**N presens of the Lordis of Counsale, comperit David Myrtoun of  
 Cammo, and producit this writting vnder writtin, subscriuit be  
 our Soverane Lord and vnder his Grace signet, and desirit the  
 samin to be insert in the bukis of Counsale one his expense, of the  
 quhilk

## OF THE COURT OF SESSION.

41

quhill the tenour followis: "Chancellor, President, and Lordis of our Counsale and Sessione, we gret yow weill: Forsamekle as our louit Dauid Myrtoune of Cammo, hes hed ane accioune of lang tyme dependand befor yow aganis Arthour Forbes of Reres, Andro Wod of Largo, and thair cotligis, anent the redempcioune of the landis of Fawfeldis and Ballais, with thair pertinentis, liand within the scherefdomme of Fiffe, and gret dilay maid therin throw menis of the said Andro, with quhem the said Dauid is now aggredit and appunctit therupoane as our sycht, and siclik quhen the said mater sulde haif bene callit and decidit, the xij day of Julij instant, Archibalde Betoune come before yow and desirit the said mater for the part of the said Arthour Forbes of Reres, to be continewit to this day, that in the menetyme concord mycht haue bene lauborit therin betuix the said Arthour and the said Dauid; and howbeit ye continewit the famin in that behalf, thane was na commoning nor concord foycht be the said Arthour of the said Dauid; quhar throw it apperis manifestlie that the famin was done for lang differring of the said Dauid fra ane end in his said mater, becaus the said Arthour, as we ar informit, is to pass with our cardinale of Sanct Androis, furth of our realme: howbeit, we will nocht that his passage be ony impediment to stope the said mater to be decidit, considering the lang depending therof, and seande full laubor of the said Arthour anent the last continewacioun of the famin. Oure will is herefor, and we charge yow, that incontinent estir the sycyt hetof, ye proceid and do justice in the said mater, and geve furth your decree therupoone, *secundum allegata et probata*, als wele in absence of the said Arthour, as and he war present, nochtwithstanding ony resput or exempcioune, or vtheris our writtingis or lettres gevin to the said Cardinale or him in the contrare for the cause for said, as ye will ansuere to ws therupoone. Subscriuit with our hand, and vnder our signet, at Edinburgh, the xv day of Julij, and of our regne the xxvij yeir."

The Lordis of Counsale, efter consideracioun had of our Souerane Lordis speciale respitt grantit to ane maist reuerend Dauid, Cardinale Archebischope of Sanct Androis, Legait, &c. and his frendis and seruandise being actuallie with him instantlie in our Souerane Lordis service furth of this realme, anentis the calling or proceeding aganis thame quhill thair returning, and als avisand with ane vther writing directe be his Grace to the Lordis of Counsale to cause the said respett be observit in all poyntis to the personis speciallie nominat tharein; be werteu of the quhilkeis Archibald Betoune procurator and factour to my said Lorde Cardinale, and in name and behalf of Arthour Forbes of Reres, quha is actualie with the said cardinale, shew that the Lordis mycht nocht proceid in the accioune movit be Dauid Myrtoune of Cambo aganis him, touching the redempcioune of the landis of Falfield and Ballas, quhill the said cardinalis or the said Arthouris hamecuming, conforme to the tenour of the said respett. And last, the said Dauid Myrtoune producit our said Souerane Lordis writtingis, chargeing the saidis Lordis to proceid and do justice to the smale end of the said pleyn, notwithstanding the premissis for diuerse resonis

## ACTS OF SEDERUNT

**1541.** resonis contenit in the samyn, quhilkis respett and writtingis forsaidis ar insert in the bukis of Counsale; therfore the saidis Lordis, haif- and regard and consideracioun of his Graceis mynd, set sa profundlie to justice, that na just accioune be colour and pretense of respettis grantit in favouris of the principale, and thame with him in cumpany, dependand before the granting of the said respett be frustrat nor tyne, hes be sentence interlocutour decernit, nochtwithstanding the said respett and writing producit of before be the said Archibald Betoune conforme thereto, that thai will proceid in the said mater conforme to his hienes last speciale writtingis direct to thame to that effect, to the finale end of the accioune betuix the saidis partiis; becaus it was concludit in the cause lang before the produccioone of the said respett or writtingis before thame; nochttheles thai inquirit Maistir Thomas Merioribankis, procuratour for the said Arthour in all the cause, gif he had ony mair to say in the said mater, quha wald schaw na thing in the said mater, becaus he allegit he was revokit. Vpoune the quhilk interlocutour the said Dauid askit instrumentis.

26 Jan. 1541.

*Letter of  
supercedere*

**T**HE quhilk day Maister Hew Rig askit instrumentis of the produccione of this writting vnderwrittin, and desyrit the samin to be insert in the saidis bukis, off the quhilk the tenour followis: "Chanceler, President, and Lordis of our Counsale, we grett yow wele: Forsamekle as all distence and contraverseis depending betuix our trast cousing and confalour George Erle of Huntlie, and our cousing Lord Forbes, and thair frendis and complices ar submittit to ws, and we haif tane one ws to mak reformacioun in the samin;—Our will is heirfor, that ye continew all summondis and pleyis dependand afor yow of ather of thairis, or thair complices and kynnismen, vnto the tyme we mak decitioune in the samin, or our new charge to yow to procede, as ye will report our speciale thankis and impleffour. Subscriuit with our hand, at Edinburgh, the viij day of December, and of our regne the xxix yeire.

" JAMES."

1 Mar. 1541.

*Letter of  
supercedere.*

**I**N presens of the Lordis of Counsale, comperit Maister James Foulis of Colintoun, Clerk of Registre, and producit this writting vnder writting, subscriuit with his Grace hand, and desyrit the Lordis to do estir the effecte therof; and als desyrit the samin to be registrate in the bukis of Counsale, off the quhilk the tenour followis: "Chancellare, President, and Lordis of our Counsale, we grete yow hartlie wele: Forsamekle as we think expedient that ane part of yow, with sic vtheris as we fall june with thame pass vpoune the ground debatable betuix Selkirk and the barony of Bowdane, pertening to our abbay of Kelso, and thar to deside and decerne vpoune " the

" the pley, and dout depending betuix thame presentlie ;—Our will 1545.  
 " is herfor, and we charge yow, that ye supercide proces, and all ~~~~~  
 " vther lettrez concerning that mater unto the tyme we cause the  
 " samin be considerit, as said is: subscruuit with our hand at Glammis,  
 " the xxvij day of Februare, and of our regne the xxix yein."

The quhilke writting the saidis Lordis accepit, and ordanit the samin  
 to be registrate, as said is.

14 Mar. 1541.

**A**NENT our Souerane Lordis writting direct to the Lordis of Counsale, makand mencioune that, forasmekle as Jhone Sandelandis, on that ane part, hes complenit to his Grace, anent ane de-<sup>scribing a certain mode of proceeding in a cause.</sup> bait of the landis of Hyndfynd, callit the Baithouse, and Gawyne Carmichell, on that vther part, inlikwise hes complenit to his Grace for the samin, quharethrow his Grace is hevelie impecschit be thame ; therfor prayand and requirand the saidis Lordis to call baith the saidis partyis befor tham, and tak cognicioune in the said mater, but ony summondis, diat, or tablie, and do justice to baith the saidis partyis equalie therinn with expedicioune, as at mare lenth is contenit in the saide writing, baith the saidis partyis being personalie present. The Lordis of Counsale continewis the said mater in the samin forme, force, and effecte as it is now, but preuidice of party, on to the xxv day of Maij nixt tocum, with continewacioune of dais ; and than the said mater to haif proces, and ilkane to ansuer to vtheris clamis vpoune ane semple bill, sic lik as it war vpoune ane peremptour summondis without diat, tablie, or continewacioune of summondis, with consent of baith the saidis partyis, quha ar warnit herof apud acta.

19 Jul. 1543.

**M**ALCOME LYCHTTOOUN askit instrumentis of the produccione of the Gouernouris writing, to charge the Lordis to desist fra all proceeding of the mater movit be the Erle of Craufurde aganis Lord Ogilby and William Wod, for redempcion of certane landis, becaus of the truble now in the cuntry.

6 Mar. 1545.

**J**AMES HAMMILTOUN of Stanhouse, capitane of the castell of Edinburgh, askit instrumentis of the produccioune of my Lorde Gouernouris writing, subscruuit with his hande, and vnder his signet, dischargeing thaim of all proceeding in ane accioune, movit be Alexander Sandelandis aganis him, and of thair officez in that part ; of the quhilke the tenour followis : " REGINA—Lordis of Consell and Sessione, we grete yow hartlie wele : Forasmekle as our de- rest couising and tutour, James Erle of Arane, Lord Hammil- toune, Protector and Gouernour of our realme, is informit that " Alexander

## ACTS OF SEDERUNT

1545. " Alexander Sandelandis, burges of the burgh of Edinbutgh, be ane simple bill, without ony summondis, hes callit and perfewis befor yow, our louit familiar seruitour, James Hammiltoun of Stanious, capitan of our castel of Edinburgh, for certane wynt, allegit bocht be him fra the said Alexander; and ye haf procedit, and intendis to procede, in the said mater aganis our said seruitour, and gef your decret tharin apoun ye sad simple bill, without summondys, nochtwithstanding his obieccione in the contrare; and swa ye procede aganis your daly practik and stile of court, vfit and grantit to vtheris in siclike caissis, howbeit the said accioune concernis our said gouernour; and tharfor he and our said seruitour suld haif mair priuilege, or, at the leist, samekle as ony vtheris within our realme: Our will is herfor, and we pray you, and als chargis, that ye desist and ceiss fra all proceeding in the said accioune, at the instance of ye said Alexander, apone the said simple bill, without peremptour summondys, conforme to your said daly practik, vfit in sic caissis, dischargeing yow tharef, and of your office in that part, for the causis abone wruttin, be thair presentis, gevin vnder our signet, and subscriuitt be our said Gouernour, at Linlith-qw, the ferd day of Marche, and of our regne the ferd. . . . .

" James G."

27 Mar. 1546.

Spiritual lords to remain for administration of justice.

**T**HE quhill day Alexander, Abbot of Cambuskyneth, President, askit instrumentis, that Johnnie, Abbot of Paisley, Thesaurar, declarit, in presens of the Lordis of Seisoun, that my Lord Gouernour had gottin lettrez fra my Lord Cardinale, referrand to him quhat personis, Lordis Spirituale of the seite, sulde remane here for administracione of justice to our Souerane Ladyis liegis, quha declarit that my Lord Gouernoutis mynd wes expresslie, that all the spirituale personis suld remane still, and nocht depart, for administracioun of justice to the Quenis liegis, and my Lord of Paisley tuk vp one hand to warrand thame in that behalff.

9 Jul. 1546.

Court of Session competent to reduce an indenture ratified by Parliament.

**M**AISTER JAMES M'GILL, procuratour for James Kirkcaldy of the Grange, in the accioune movit be the Lord Glamis aganis the said James, for his reduccioun of the said James infestment of the barony of Kingorne, protestit for all his defencis, baith peremptouris and dilatouris, nocht admittand the Lordis as jugis competent in the said mater. The said Maistir James allegit, ther was ane acte in the mater aboune wruttin, registrate in the bukis of Parliament; and, therfor, the Lordis of Counsale mycht be na competent jugis in the said mater. The Lordis of Counsale, be sentence interlocutour, decernis that thai are competent jugis in the said mater, nochtwithstanding

standing the said Maister James allegiance, because the said acte is 1546.  
na decrete of Parliament.

31 Jul. 1546.

THE quhilk day my Lord Governeur, in the accione movit be <sup>Occasional</sup> Jhone Hume of Blacadere aganis James Cokburne of Lang-<sup>appointment of six extra-</sup> tone, and his collegis, for spoliacioun of certane gudis, becaus <sup>the ordinary</sup> the mater is greit and wychtie, and ane preparatiue apperand to be in <sup>Lords.</sup> tym cuming; therfor, his Grace has adionit to the Lordis of Sef-  
fione, the Erle of Cassillis, the Erle Merschell, the Lorde Somer-  
vell, the Bischop of Dunblane, the Abbot of Pasley, the Abbot of  
Couper, to avise determe and conclude in the saide mater, and justice  
ministrat, as efferis.

30 Aug. 1546.

THE quhilk day the Lordis vnderstandis that thair is diverse per-  
sonis aganis quham thair is decretis gevin, decernyng thame to <sup>Against sus-  
pensions of diligence up-  
on decrees.</sup> fulfill certane pointis contenit in the saidis decretis, quhilkis gevis in  
billis, makand mencioune that thai haue fulfilled the decretis, and  
tharefore gettis lettres, be deliurance of the Lordis, to call the parteis  
to ane lang day, to heir the saidis decretis to be optemperit and obey,  
howbeit the samin is nocht of verite; be the quhilk the personis quhilk  
hes optenit the saidis decretis ar gretumlie hurt and fraudit: Thare-  
for ordanis that, in tyme cuming, na deliurance salbe grantit to  
stop the executione of lettres past vpoune decretis vnto the tyme  
sum euidentis be schaw quhair the personis, purchessouris of sic deli-  
uerance, hes optemperit and obeyt the command of the saidis lettres,  
or offerit realie, and with effecte, to obey the samin, efter the forme  
and tennour thareof; and siclike vpoune lettres gevin vpoune cursing,  
allegeand absolutionis.

3 Sept. 1546.

THE quhilk day the Lordis of Counsale being convenit for or-  
douring of the ingetting of thair contribucionne, grantit to <sup>For collect-  
ing the con-  
tributions due  
to the Judges.</sup> thaim be the prelatis of this realme, and to the College and Sait of Justice and Sessioun, awing of diverse termes bigane be the saidis prelattis, hes maid, constitute, and ordanit Maister Johnne Gledstanis, licenciate in baith the lawis, ane of the nouer of the saide sett, thair procuratour, factour, and speciale doar, for thame, and in thair name, to pass to all dioceis prelatis within this realme, and thair execute, and cause execute, oure haly fader the Papis bullis, with executorialis thervpoune, vpoun all prelatis, abbottis, priores, prioreffis, and vther digniteis, awing contributione yeirlie to the saide sett; and siclik to execute our Souerane Ladyis lettres, gevin be vertew of decretis in Parliament or vtherwys, or be deliverances for ingetting of the said contribucionne ordourlie, as efferis, with powar to him to tak

## ACTS OF SEDERUNT

**1546.** compt of all the saidis prelattis, acquittancis to vesy, confidder, ande se ;  
 and as beis sene be him, justlie to allow, to ressaue the sovmes awing be  
 thame, ande to gif acquittancis thairupoune, as resavour ande speciale  
 collectour for the tyme in that behalf to the saide seitt, to quham thae  
 committ thair haill powar, bayth of termes bigane and tocum, swa  
 that the saide College may haue thankfull payment of the saide contri-  
 bucioune yeirlie of all the termes bigane and tocum, be ressone of thair  
 greit vrgent and continewale laubouris for administracioune of justice  
 to all the liegis of this realme.

16 Dec. 1546.

**M**AISTER THOMAS MCALYEANE, procuratour for Freir Archibalde Arnot, allegit that the Lordis war na competent jugis to the religious menn contenit in the lettrez rasit at the instance of the Quenis Grace, aganis him and vtheris kirkmenn, contenit in the famin, for delivering of the place of Scotland-well to the Quenis Grace and my Lord Gouverour, bot his ordinar allanerlie. The Lordis, be sentence interlocutour, decernis them jugis competent, nochtwithstanding the allegeance forsaide : vpone the quhilk interlocutour the said Maister Henry Lauder, aduocat to the Quenis Grace, askit instrumentis, hora xij<sup>a</sup>.

The said Maister Thomas, procuratour forsaid, allegit that the libell producit be the aduocat aganis the said Freir Archibald, and vtheris, assisteris to him, for deliuernce of the place of Scotland-well, wes inept in diverse punctis ; and specialie that Quenis Grace culd nocht haif possessioune of ane rilegious place, be ressone of hir patronage, and diuerse vtheris punctis allegit befor the saidis Lordis. The Lordis, be sentence interlocutour, fyndis the libell relevant anewch, and not inept, and therfor decernis ferther proces to be had therin, hora xij.

17 Dec. 1546.

**M**THOMAS MCALYEANE, prolocutour for Frere Archibalde Arnot, allegit that he is ane spirituale persone, and the accione contenit in the bill wes ane spirituale accione ; and therfor the Lordis ware na competent jugis to him. The Lordis, be sentence interlocutour, findis thaim competent jugis, conforme to the interlocutouris gevin of before. It was allegit be M'Calyeane, that the Quene hade no accione to desir the place, be ressone sche has alanelry bot the presentacione, and can nocht haif possessioune of ony religeus place. The Lordis, be sentence interlocutour, findis that the Quenes Grace has ane actione in this caifs, as it is libellate. Aduocate askit instrumentis herapone. Assignis to the Quenis aduocate, on that ane part, and Frere Archibalde Arnot, on that vther part, Monunday nixt tocum, with continuacione of dais, to geif in, *binc inde*, sic resonis

Jurisdiction  
of Court in  
matters spi-  
ritual.

fonis and informacionis as thai haif or will vse anentis the mater of 1548.  
Scotlande-well.

4 Feb. 1546.

**M.** JAMES M'GILL allegit that the advocate sulde noct remain King's advo-  
cate declined  
and vote in the mater forsaide, \* becaus the accione is per-  
fewit be him, and at his instance, as aduocate, and therfor sulde noct remain as a judge in  
vote. The Lordis, be sentence interlocutour, findis that the aduocate actions at his  
sulde ryse, and pass to the bare, and noct vote therin. <sup>instance.</sup>

17 Feb. 1547.

**I**N prefens of the Lordis of Counsale, comperit Maister Abrahame <sup>Admission of</sup> Creychtoune, officiall of Lowdiane, and producit ane writting, <sup>Mr. Abra-</sup> subscrivit be ane noble and mychtie Prince, James Erle of Arrane, <sup>ham Crich-</sup> Lord Hammiltoune, protectour and gouernour to our Souerane Lady, <sup>ton as a</sup> judge.  
directe to the President and Lordis of Seffionne, makand mencioune  
that diuerse tymes the saidis Lordis may noct proceid and do justice  
for laik of nomer, and tharfor desyring the saidis Lordis to admitt  
the said Maister Abrahame in thair nomer, as at mair lentht is con-  
tentit in the said writting, of the date the xv day of Februar last by-  
past: The quhilke desire the saidis Lordis thocht resonable, and hes  
ressauit the said Maister Abrahame in to thair nomer, and hes admit-  
tit thaim therto, and has tane his aytht of fidelite, the haly evange-  
lis tuechit, that he fall leuely and treulie, but feud or fauour, mini-  
ster justice equalie to all our Soverane Ladeis liegis, efter his knaw-  
lege and vnderstandinge, in all ciuill accionis, as ane of the saidis  
Lordis of Seffionne, and fall observe, kep, and fulfill all stututis and  
ordinancis maid anentis the ordour of the said Seffionne..

19 Jun. 1548.

**T**HE quhilke the Lordis of Counsale havande consideracioune of this <sup>Successe</sup> present tyme of weir, and how all menn in this realm, be re-<sup>Increase of</sup> justice on ac-  
founue of the generale proclamacionis, are makande and preparande  
thaim with all diligence for the host and army, for expulsioune of  
aulde enemyis, and to putt this realme to fredome, quhairthrow the  
tyme being considerit, and be resoune of the statutis and proclama-  
cionis maide in tyme of weire of before, thinkis and declaris that thai  
cane noct proceide aganis ony party that passis thairselfis, or preparis  
thair folkis to this present army vnto the tyme of thair returning  
hame fra the famyne, and x dais thereftir, conforme to the actis  
and proclamacionis maide in sik lik casis of before; excepte alanelly,  
bot geif it be with consent of bayth the partyis, that thai proceid and  
minister justice, as accordis.

10 Jul.

\* Respecting the delivering up of the house of Craighall to John Lindissay, by M. Alexander Kynynment, dated Ull. Jan. &c.

## ACTS OF SEDERUNT

1548.

10 Jyl. 1548.

**L** ETTERS of supersedere similar to those of 5. December and 20. January 1533.

8 Feb. 1548.

Admissio et  
juramentum  
clericis regis-  
tri, viz. M.  
Thome Me-  
rioribankis.

**T**HE quhilk day Maister Thomas Merioribankis of Ratho, chosin of before to the office of the clerk of registri, and in presens of the Lordis schew his eleccione; and the Lordis havande inspec- cioun thareof, desirit him to geif his aitht in the saide office con- cerning all ciuil materis before thaim; quha swore lelely and trewly to minister be him self and his deputis and seruantis, in the said of- fice, and to keip all statutis and ordinancis for administracione of justice to our souerane ladyis lieges, efter his vnderstanding and knawledge.

24 Feb. 1548.

Concerning  
the contribu-  
tions.

**T**HE quhilk day, ane reuerend fadir in God, Robert, bischop of Orknay, President of the College of Justice and Sessione, and the remanent of the senatouris therof abone writhin, hes statute and ordanit, that in all tymes cuming the contribucioun grantit be the prelatis of this realme to the sustentacioun and wphalde of the said college of justice and senatouris therof, shall be pait to thaim eftir the rait of thair residence, be quotidiane distribucioun, conforme to the bull of ereccione, and na vther wayis, and als dischargis all assignacioonis maid or to be maid or assignt ony maner of way be the collectour for the tyme, to ony particulare persone of the said sete, bot that the collectouris for the tyme ressaue gader and collect the hale contribucione, and to mak distribucione therof as saide, and to mak yerlie compt, tekning, and payment of thair ressaue as thai shall be re- quirit be the president and senatouris of the said college in all tymes cuming; and geif ony of the said sete ressaue ony of the said contribucione, that thai shall randir the samyne with the doublie thereof, and that the scribis of counsale breve daly the names of the lordis, that just distribucione mycht be maid to thaim for thair laubouris.

1 Mar. 1548.

Appoint-  
ment of ad-  
vocates.

**T**HE quhilk day the Lordis of Counsale hes chosin thir procura- toris and aduocatis vndirwrittin, as maist discreit and qualifyit personis of gude conscience, and vndirstanding to procure befoir thame in all accionis and caussis to be persewit and defendit befoir thame in tyme cuming, that is to say, Maister William Wychtman, Maister James M'Gill, Maister Dauid Borthuik, Maister Thomas M'Calyeane, Master George Strang, Maister Thomas Kinragy, Maif- ter Johne Abircrummy, Maister Johne Spens, and Maister Robert Heryot, quha maid faith in presens of the saidis Lordis that thai shall lelelie

## OF THE COURT OF SESSION.

49

leelie and treulie ministere in the said office of aduocacioune, in all thingis, conforme to the commounue law and statutis of the Sessioune. 1549.

7 Mar. 1548.

**T**HE quhilc day George, Erle of Huntlie, Lord Gordoune and Badyenach, &c. Chancelere, producit this writting vnderwrittin, subscrivit be my Lord Gouvernour and Lordis vader specifeit, and defyrit the samin to be insert and registrat in the bukis of counsale, and the auttentik copy therof to be deliuering to all partiis desyrand the samin; the quhilc dessir the sadis lordis thocht resonable, and therfor ordanit the said writting tobe insert and registrat in the sadis bukis, and decernis the auttentik copy therof to be deliuering to all partiis desyrand the samin; off the quhilc the tenour followis:

" Apud Strueling, tercio Januarij, anno domini, &c. xlviij<sup>o</sup>. The quhilc day the Quenis Grace, my Lord Gouvernour, and Lordis of Secret Counsale, vnderstandand the gret hurt of our souerane ladeis liegis throch the want of justice and misfordour in administracione therof, ordanis the prelatis to se the Lordis of Sessioune payit thair yeirlie pensionis appunctit to thame for thair sustentacioune vpoune the Sessioune in our Souerane Lordis tyme, quhom God assolye, that last deceffit; and ordanis the Lordis of the Sessioune to fit continewalie therone, conforme to the statutis of the samin, for ministracione of justice betuix partiis quhatsumeuir, in all sic accionis as hes bene in tymes bypast discussit in the Sessioune; and becaus the Lordis of the Secret Counsale ar oftymes impeschit with billis and accionis that aucht to be decydit in the Sessioune, betuix party and party, the Lordis forsaidis ordanis the Clerk of the Counsale to resfaue na billis in tymes tocum, bot to remit the samin to the secretaris of the Sessione, quhair thai will that all ciuill accionis betuix party and party be decydit be the Lordis of the Sessione in all tymes tocum, and nocht be the Lordis of the Secret Counsale; and that the Lordis of the Sessioune do justice, as thai will ansuer to God, to all partijs, nochtwithstanding ony privat lettrez or writingis in the contrar, gevin or to be gevin.

" JAMES G.

DUNKELD.

" HUNTLIE CANCELLARIUS.

CANDIDE CASE.

" GE. LORD SEYTONE.

RO. ORCHADEN. EP.

" GE. DOUGLESS.

D. DE CUPRO.

" WILLIAM HAMMILTONE.

TH. CLER. REGISTRI.

" RO. CARNEGY."

30 Mar. 1549.

**T**HE quhilc day my Lord Gouvernour, with avise of the Lordis of Sessioune adionit of before to the Lordis of Sessione vj Lordis of six Prelates and Lords to and greit menne, that is to say, Bisshop of Dumblane, Erle of Cassillis, be adjoined Erle Merschel, Abbotis of Paislay and Couper, Lord Somervell, to be present with thaim in the discussioune and examinacione of witnes in the actione movit be Jhone Hume of Blacader, aganis the Lard of Langtoune, <sup>to the court in a certain cause. See also 2. April 1549.</sup>

## ACTS OF SEDERUNT

**1549.** tuiching spoliacione of certane gudis, as is contenit in the summondis thairupoune, or ellis als mony adionit to thaim in thair placis as hanpenis to be away to that effecte, and that na witnes be examinat bot in thair presens with my Lord Gouernour, and the decret to be gevin siiclik be thaim all togidder, and falyeinge that ane or vther be absent, vtheris to be adionit in thair placis, as said is, and na vther wyis, as in ane acte maid thervpone of befor is contenit: and now becaus of absence of certane of the saidis Lordis adionit of befor, that is to say, Erle Merschell, Abbot of Couper, and Lord Somervell, my said Lord Gouernour, with avise of the saidis Lordis, hes now chosin and adionit in thair placis the bischop of Gallowis, Abbot of Culross, and Lorde Setoune, and thai to be present with my Lord Gouernour and the vther Lordis adionit of befor in the discussione of all actis and examinatione of witnes in the said cause, to the finale end therof; and ay as it hapnis ony of thir to be absent, vtheris to be chosin in thair placis.

*Eod. Die.*

**Four Privy  
Counsellors  
adjoined in  
another cause.** **T**HE quhilk day my Lord Gouernour, with avise of the Lordis of the College of Justice, havand consideracione of the wechtynes and gretnes of the actione of spulye intentit be the Lard of Bucklewh aganis the Lard of Trabroune, hes adionit to the Lordis of Sesfioune, ony four of the Lordis of Privey Consell that fall happen to be present in this toune for the tyme, to be with thame in the discussione of the said accioun and examinacione of the witnes, to the finale ende of the famin, and that na witnes be examinat without four of the said Prevey Consale be present with the saidis Lordis of Seffione. Providing alwayis that this be na preparatiue, and that na adiunctioun be maid in ony accioune perfewit before the saidis Lordis fra this day furth in tyme to cum, bot that the saidis Lordis of Seffione alanelry determe and decyde in all acciounis cumand before thaim, and minister justice, as accordis.

*2 Apr. 1549.*

This relates  
to the entry  
30. March  
1549.

**M**Y Lord Gouernour and Lordis of Counsale, Forsamekle as in the accioune movit be Jhone Hume of Blacater, aganis William Cokburne of Langtoune, for certane spulye, are diuerse witnes resfauit and sworne, and vnexaminat, and the mater is continewit to the xx day of Maij nixt to cum, to summonde the witnes that ware summonde of before and comperit nocht, to be summonde agane vnder greter panis and ma: Therfore becaus it is mair esely and less laubour to bringe all the witnessis togidder bayth ellis sworne, and to be sworne, at the said day, thai thing than to examyne the famine, and my Lord Gouernour and Lordis adionit to be present at the examinacioun of the saidis witnes, quha will tak sik travell on thaim at the said day, quharthrow the saidis witnes sal be examineate, and justice ministrate as accordis.

*1 Feb.*

1549.

1 Feb. 1549.

**T**HE quhilc day the Lordis of the Sessioune Spirituale and Tempore, for thame selffis and thair collègis absent, havand respect of the diverse and syndry argumentis and questionis that may ryse amangis thame anentis the distribucione of the contribucioune of the fete, ressaltit and ingottin be Maister Johnne Sinclare Dene of Restalrig, and Maister Thomas Wemes of Vnthank, Collectouris deputo to the ressalt of the famin, of all yeris and termes bigane immediatlie precedande the terme of Wytfsonday, in the yeir of God M. D. and xlix yeiris exclusiue, and for stanching of sic argumentis and questiones, and put ane perfyte ordour thairto, hes all in ane voce thocht gude, and hes referrit, and purlie referris and submittis, the jugement ordouryng and distribucioune of the famin in amicabill maner to my Lordis of Orknay, President, Maister William Lamb Persone of Conveth, Maister Abrahame Chrechcoune, Prouest of Dunglas, Maister Thomas Merioribankis of Ratho, Clerk of Registri, and Maister Johnne Ballendene of Auchnole, Justice Clerk, quhilc is President and Lordis forsaidis, hes presentlie acceptit the said in and vpoun thame, and hes promeist to deliver thairintill amicablie how sone thai may possible. The quhilc deliuernace to obserue, fulfill, keip, and byde at, without ony reuocacioune or agane callyng, all the Lordis abone writtin, and euery of thaim, hes promittit, and presentlie promitis, faythfullie vpoun thair honour and lawtie, and neuir to cum in the contrair. Prouidyng alwayis, that this present submissioune, nor the deliuernace and decretit to be gevin be the saidis Lordis amicablie as said is, in the said mater, fall gife na richt nor titill of richt to ony of the Lordis present and to cum, thairby in tymes cumyng, ony richt, vse, consuetude, or possessioun; bot that, in all tymes to cum, the said distributioune of the yeir of God M. D. and xlix yeiris, and sua furth yeirly, to be gevin and ordourit, conforme to the erectioune and institucioune maid thairvpone, and ordanis this present act to be registrat in the bukis of Counsale, and to haue the strenth of ane act and decretit of the haill Lordis in tymes to cum, and for the mair securitie hes subscriuit the famin with thair handis, day yeir and place forsaidis.

R. ORCHADEN. EPISCOPUS.  
RECTOR CONVET.  
RECTOR DE RENFREW.  
SANCHARE.  
H. LAUDER.  
J. PREPO. DE DUNGLASS.  
PRECENTOR GLASS.  
J. GLEDSTANIS.  
JOHANNES SYNCLER.  
DEC. DE RESTALRIG.

4 Feb.

## ACTS OF SEDERUNT

1549.

4 Feb. 1549.

Decreet-arbitri-  
tal upon the  
foregoing  
submission.

**W**E ROBERT Bisshop of Orknay, President, Maister William Lamb, Persone of Conveth, Maister Abraham Crechtoune, Clerk of Registri, and Maister Johne Ballendene of Auchnole, Justice-Clerk, Jugeis Arbitratouris, and amicable compositouris be submissioune, chofin be the haill Lordis of the Sessioun, spirituale and temporale, anent the solutioun of all argumentis and questiones that may ryfe amangis the saidis Lordis anenttis the distributioun of the contributioun of the sete reffauit and ingottin be Maister Johne Sinclare, Dene of Restalrig, and Maister Thomas Wemes of Vn-thank, Collectouris deput to the reffait of the famin, of all yeiris and termes bygane, immediatlie precedande the terme of Witsonday in the yeir of God M. D. xl ix yeiris exclusie, and to put ane ordour thaimto, lik as in the act of submissioune, off the dait, at Edinburgh the first day of Februar, the yeir of God forsaid, is at mair lenth contenit: And we the saidis Lordis, acceptand the said mater vpoune ws, and hes considerit the famin, and allegationes and argumentis prove and contrair in the famin, havand God and gude conscience befoir ee, and to the troublous tyme bygane, and diverse vtheris resonable causis and considerationes movyng ws, all in voce without variance, pronounceis, decretis, deliuveris, and ordanis, the act and ordinance maid at Edinburgh the xxij day of December, the yeir of God forsaid, anent the pattyng and deliueryng of the said contributioun to the saidis Lordis amicablelie, as said is, to be obseruit and kepit, and to haue effect, and be fulfillit in all poyntis, esuir the forme of the famin, of the quhilke act and ordinance, the tenour followis: " Apud " Edinburgh, xxiiij<sup>o</sup> Decembris, anno, &c. xl ix<sup>o</sup>. Sederunt Episcopus " Orchadenis, Preses, Rector de Conveth, Rector de Renfrew, Cleri- " cus Registri, Vilelmus Hammiltoun de Sanchquhare, miles, Clericus " Justiciarie, Magister Henricus Lauder, Aduocatus, Magister Johanes Gledstanis. The quhilke day, the saidis Lordis, with awyse and " consent of the remenant of the Lordis, Senatouris of the College " of Justice, beyng assenblit and gadderrit to tak compt, reck- " nyng and payment of Maister Johne Sinclare, Dene of Restalrig, " and Maister Thomas Wemes of Vn-thank, Collectouris Deput be the " Lordis of the said sete for the tyme, in the moneth of Maij, the " yeir of God, M. D. xl viij yeiris, to ask, craif, reffauie, and inbryng the " contributioun, awand and assignit be the Prelatis and Clergy of " oure realme, for the uphald of the said College and Senatouris " thairof, and for the dew administratioun of Justice to oure Sou- " erane Ladyis liegis; like as, in the actis of Parliament, and diuerse " vtheris statutis and ordinances maid thairvpoune, is at mair lenth " contenit: And becaus the said compt hes noct bene hard nor " reffauit thir mony yeris bigane, quhairthrow the maist parte of " the Lordis Senatouris, wantis thair part of the said contribu- " tioun; and to the effect, that in all tymes cumyng, thai will the " mair glaidlie serue and attend vpoun the said Sessioun for admi- " nistratioun

1549.

" nistratioun of iustice, as said is, hes presentlie this day, hard and  
 " tane compt of the saidis Maister Johne Sinclair, and Maister Tho-  
 " mas Weyms, Collectouris forsaidis, of thair ressalt and intromis-  
 " sioune with the said contributioun, awand be the saidis Prelatis  
 " and vthiris Kirkmenne, to the saidis Sete and Senatouris thairof, of  
 " all yeris and termes bygane, sen thair interes to the said Collectourry  
 " in the moneth of Maij forsaid, and precedande the samyne, vnto  
 " the terme of Witsunday in the yeir of God M. D. and xlix yeiris  
 " exclusiue. In the quhilkis, the saidis comptaris chargeis thaim in  
 " primis with thair ressalt, ressalt fra the saidis Prelatis, be the said  
 " space extendyng to the sovme of ij<sup>m</sup> jc xl<sup>i</sup>. iijs. viijd. : And siclik,  
 " with the sovme of ij<sup>c</sup> xl li. ressalt and vptakin be Schir Johne  
 " Campbell of Lundy, Knyth, ane of the saidis Senatouris, fra Donald,  
 " Abbot of Cowper: And, inlikmaner, with the sovme of jc li res-  
 " salt be Maister Johne Gledstanis, ane of the saidis Senatouris;  
 " Quhairthrow the chargeis of the saidis Collectouris extendis in the  
 " haill, to the sovme of ij<sup>m</sup> iiijc l li. iij s. viij d. off the quhilk sovme,  
 " thair is allowit, be the saidis Senatouris and Auditouris abone writ-  
 " tin, for the ordinar expensis maid and deburfit be the Comptaris,  
 " in the ingettin of the charge of the money precedand, duryng the  
 " tyme of this compt, the sovme of xxxij li. xv s. x d.: And, inlik-  
 " uise, allowit to the said Maister Johne Synclare, for his grete cure,  
 " labouris, and diligence, takin be hym, for the ingettin of the said  
 " contributioun, all the tyme abone writtin, jc li. and sua restis de-  
 " claro, ij<sup>m</sup> iijc xvij li. viij s. x d. Quhilkis the saidis Lordis and Au-  
 " ditouris forsaidis, decernis and ordanis to be distribute be the saidis  
 " Collectouris, as eftir followis: That is to say, in the first, to the  
 " said Schir Johne Campbell for viij yeiris, havand yeirlie xl li. ex-  
 " tendyng in the haill, to the sovme of ij<sup>c</sup> lxxx li. of the quhilk sovme  
 " he hes ellis ressalt fra the Abbote of Cowper, ij<sup>c</sup> xl li. as the saidis  
 " Comptaris charge beiris, and sua restis to be payit be the saidis Col-  
 " lectouris to the said Schir Johne, xxxv li.: Item, to the said Maister  
 " Johne Sinclair, Dene of Restalrig, for viij yeris, havand yeirlie xl li.  
 " as said is, extendyng in the haill to the sovme of iiijc xx li.: Item, to  
 " the Persone of Conveth, for nyne yeiris, takand yeirlie xl li. as said  
 " is, extendyng in the haill to iijc lx li.: Item, to Maister Henry Lau-  
 " der, Aduocat, for viij yeir, takand yeirlie xl li. as said is, extendyng in  
 " the haill to ijc lxxx li.: Item, to Maister Johne Gledstanis, for viij yeir,  
 " havand yeirlie xl li. extendyng in the haill to ijc lxxx li. off the  
 " quhilk sovme of ijc lxxx li. thair is ellis payit and ressalt be the  
 " said Maister Johne, jc li. and sua restis to be payit to hym be the  
 " saidis Collectouris jc lxxx li.: Item, to the Persone of Ransfrew, for v  
 " yeris, havand yeirly xl li. extendyng to ijc li.: Item, to Maister Tho-  
 " mas Wemes, for iiiij yeiris, and ane terme, takand yeirly as said is,  
 " extendyng to ane c lxxx li.: Item, to Schir William Hamlynltoun,  
 " for iiij yeris, takand yeirlie xl extendyng to jc xx li.: Item, to the  
 " Justice-Clerk for tua yeiris, lxxx li.: Item, to Robert Carnagy, for tua  
 " yeiris, lxxx li.: Item, to the officiale, for ane yeir, xl li.: Item, to the re-  
 " lict of vñquhill Maister James Fowlis, Clerk of Registri for the tyme,  
 " to ane gude compt, xl li.: Item, to the relict of vñquhill, Maister

## ACTS OF SEDERUN'T

1553.

" Adame Otterburne, to ane gude compt, xl li. Summa of the haill distributione and allowances abone writhin respectiue ij<sup>m</sup> iiiij<sup>c</sup> xxxij li.  
 " xv s. x d.; and sua restis de claro xvij li. viij s. x d.: Quhilk rest is deuisit and ordanit to be payit and gevin to the said Aduocat, and to Maister Johne Gledstanis, to be deuidit equalie betuix thame, for consideratioun movyng the saidis Lordis and Auditouris forsaidis; et sic eque quo ad computantes, of all thair restis and intromissioune with the said contributioun, per tempus computj. Providing alwayis that this present ordinance and distributioun, gevin in maner forsaid, fall gife na richt, nor titill of richt to ony of the Lordis present and to cum, to clame thairby, in tymes cumyng, ony richt, vse, consuetude and possessioune. Bot that in all tyme to cum, the said distributione of the yeir of God M. D. and xlix yeiris, and sua furth yeirlie in tyme to cum, to be gevin, ourdourit, and distribute, conforme to the erectioun and institutione maid thairvpoune; and ordanis this present compt of the said contributioun, allowances, and distributione forsaidis respectiue, to be registrat in the Buktis of Counsale, and to haue the strent of act and decret of the Lordis thairof, quha hes presentlie interponit, and interponis, thair auctorite thairto, and will and grantis that this present compt, restis, intromissioune, and allowances forsaidis, be, as said is, gude and sufficient dischargis of the sovmes abone writhin to the saidis Comptaris, and thairof dischargis thame, thair airis, executouris and assignayis, for now and euir, payment beyng maid to the saidis Senatouris, ilkane of thame for thair awin particularlie, as abone expremit. And for the mair securite, we, with the rest of the haill Lordis, hes subscribed thir presentis, with our handis, day, yeir, and place forfaidis.

" R. ORCHADENSIS EPISCOPUS.

" RECTOR CONVENT.

" G. RECTOR DE RENFREW.

" SANCHAR.

" H. LAUDER.

" J. GLEDSTANIS PREPOSITUS DE DUNGLASS.

" PRECENTOR GLASGUENSIS.

" DECANUS DE RESTALRIG."

17 Jan. 1553.\*

Procuring of  
advocates.

THE quhilk day, forfamekle as ther is diuerse our Souerane Ladyis liegis that daylie and continewalie, als wele perfeuaris as defendantis, commys befor thame at the calling of thair materis, and makis thare excuse that thai can nocht gett procuratouris to procure for thame, quherethrow the Lordis ar gretlie impeschit, and the partis gretlie frustrat, and justice delayt: For eschewing of the quhilk in all tymes to cum, it is deuisit, statute, and ordanit be the Lordis Senatouris

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\* This article and the following are from the Books of Sederun'—omitted in the former editions.

natouris of the College of Justice, that quhatsumeuir persoun or personis that hes ony actions movit or to be movit be thame, or aganis thame, persewit, or to be persewit, before the saidis Lordis, that thai and euery of thame mak sufficient diligence to gett ane procuratour to procur and defend in thare caufis before the day or dais appunctit or to be appunctit, owther for billis, lettrez, or actis, maid or to be maid in ony cause, with certificatioun to quhatsumeuer that failyeis, and dois nocht sufficient diligence as said is, that all sik excusis fall nocht be heard nor admittit in tymes to cum, bot justice fallbe done in all caufis as accordis.

1555.

2 Ma. 1554.

**I**N presens of the Lordis of Counsel, comperit Marie Quene Against soli-  
Dowerar of Scotland, and Regent Generale of the samyn, and citation to  
schew and declarit, that hir Grace hes laitly acceptit the cure and stop justice.  
regiment of this realme in and upone hir, and wes euir, befor the samin  
come in hir handis, willin, and als declarit that scho wald haue justice  
done, nochtwithstanding at ony prive wreitingis gevin or to be gevin  
in stope and hyndering of justice, conforme to the generale act maid  
therupone; and hir Grace, willing that justice wer done indifferentlie  
to our Souerane Ladyis lieges, and na man suld have caus of  
complaint in tymis tocum, hes declarit and declaris, that in caise  
hir Grace be circumvenit, and geve som private writingis, lettrez  
or chargis, be solistation, negligence, or vtherwais, to continew ac-  
tions, and stop justice, that the saidis Lordis fall procede and do  
justice conforme to their actis and statutis, maid anentis the proces  
and ordour of caufis, nochtwithstanding ony sik private writingis,  
lettres, or chargis, gevin or to be gevin be hir Grace in the contrar,  
conforme to the actis and constitutionis maid of befor, quhilk writ-  
ings, chargis, and lettrez hir Grace will tak na effect, nor be of strenth  
force nor effect in tymes tocum.

1555.\*

**I**N PRIMIS, The Lordis of the College of Justice findis and con- Ordour to be  
fidderis that the multitude of supernumerare Lordis adionit to had anent  
the President and fourtene ordinar Senatouris is aganis the erectioun supernume-  
of the College of Justice actis and statutis maid be vñquhile oure rare Lords-  
Soverane Lord that last deceiffit, King James the Fyft, quhome God  
assoilye, in Parliament, be the advyise of the thre estaitis of the samyn,  
obseruit and kepit be his nobill Grace all his tyme; be the quhilk  
it

\* The following entries have been copied from a Collection of Statutes and Acts of Session, &c. in the Advocates Library (MS. A. 3, 22, fol. 323,—325), in which they are inserted without any date. In another MS. in that library, commonly called Habakuk Bisset's Rollment of Courts, p. 68, the first of these entries is given with the following addition:—" Statutt be the said Lords, the yeir of God ane thowsand fywe hundred and syte fywe yeiris."

## ACTS OF SEDERUNT

1555. it wes nocht lesun to his Grace to adione of supernumerale Lordis to the saidis Senatouris, except thre or four of the greit counsale at the maist. Quhairfoir the saidis Senatouris humelie requeiftis, prayis, and exhortis the Quenis Grace Regent of this realme, vnder our soveraine Lady, Quene of the samyn, to name, schaw, and declair, quhilk thre or four of the greit counsale fall haif voce and be adionit to the saidis Senatouris, and to discharge the remanent, conforme to the erection, actis, and statutes foirsaidis. And that the saidis supernumerare Lordis remane continewalie, and mak personale residence with the President and the vther Lordis numerares ordinaris, in discussing of all causses, and administratioun of iustice to the lieges of this realme, with certificatioun to thame, and thai failye, thay fall nocht haue voit at thair cuming, bot falbe removit as vtheris vnchosin, be ressoun that it may be iudged gif thai do vther wyis, that thai cum allaneflie for particular actionis of thair awin, or concerning freindis, and to haue expeditioun thairof, and than to depart as thai pleis.

Anent the calling of the tabill. ITEM, that the tabill be daleie callit ordeurie, nocht omittand nor transcurrand ony summodis contenit thairin, be the President, or ony vther of the Senatouris depute be him thairto. And the tabill beand

twyis callit on findry dayis, that thai summondis nocht persewit falbe desert, prouiding alwayis, that the summondis be nocht desert for twyse calling in ane owlk. And that the thrid calling of the samyn, and nocht persewit, to be desert and scorit furth of the tabill ; and that the calling of the said tabill be notit on the bak of the samyn be the collar thairof, and processe to be gevin vpoun ilk summondis be the ordour of the tabill, or ony vther mater, be callit be the Lordis ; and that the tabill be callit daleie at the last hour befoir none or thai ryise; and that hour to be occupiit be the calling of the summondis of the tabill ; and in caise the tabill requeir nocht the haill hour, that the Lordis proeid forder in vtheris actionis and causses as thai fall think maist expedient and convenient fer the tyme. And the last hour, that the begynning thairof be schawin to the Lordis be the massar depute for that owlk thairto.

Anent the tymes of conuentionis. ITEM, the Lordis thinkis expedient, and hes devysit and ordanit that euerie ane of them fall convene in the Counsalhous fra the first day of Marche to the feist of Lambmess nixt thair eftir, daleie ilk feriot day, quhen thai sit at viij houris in the morning, except the dayis of precheing, quhilk falbe at nyne houris ; and fall remane continewalie thairin quhill xi houris, and on precheing dayis quhill houris be strikin, and na langar. And howsone that xi or xij houris respective strykis, the saidis Lordis fall ryise and remane na langar;

and all wintir fra the ferd day of Nouember to the first day of Marche thaireftir, to convene in the said Counsalhous at nyne houris, and to remane quhill xij houris, and na langar ; and howsone the saidis houris respective strykis, the saidis Lordis fall remane na langar in discussing of ony causis, and quhateuir beis done thairintill to be null in the self ; and that the said massar depute thairto owlkli, as said is, schaw to the Lordis sasone as xi or xij houris strykis, vnder the pane of tinsall of his office, and vtheris panis arbitrar tobe imput to him be

be the Lordis thairfoir ; and that the kepar of the kirk of the stepill of Sanct Geill, nowther hald the knock abak, nor haist the hour, bot that he rewle the samyn iustlie, vnder the pane of scurgeing of him throw the toun ; and quhilk of the saidis Senatouris that failyeis and convenis noct in the faid Counsalhous at the houris foirsaidis respetive, thai fall pay xvijd. tobe debursit incontinent, and fall want thair part of the contributioun and quotidiane distributioun for that day, howbeit thai cum befoir none, nor fall noct be brevit nor wruttin amangis the Lordis sedentis, bot salbe notit immediatlie thaireftir in caiss that nowmer failyeis in geving of decretis, and that all the names of the presentis be notit be the principall scrybes dalie, at aucht or nyne houris respective, as said is ; and that nane depart fra thai entir in the tolbuuyth, quhill the saidis houris respective be stryken ; and the mater that last is left at none tobe first discussit ~~on~~ the morne, nixt eftir the billis, quhen the housis ischit.

ITEM, It is devyfit and ordanit that the Lordis convene to the Anentis the sessioun euerie yeir at the termis following, swa that oure souerane conuentioun Ladiis liegis may be aduertisit of the saidis termis, to the effect that <sup>of the Lordis</sup> thair may cum, persew, and defend thair actionis, and tobe noct frus- trat in thair cuming to this toun, as thai haue bene in tymes bigane ; that is to say, to convene eftir pasche vpoun Mononday xv dayis nixt eftir pasche day, and thaireftir to sit owlklie to Thurisday befoir Witsunday inclusiue; and thaireftir to haue vacance quhill Trinitie Sonday inclusiue ; and the morne thaireftir to convene and sit quhill Lambmes evin inclusiue ; eftir the quhilk terme of Lambmes, be resoun of the feriot tyme of hervist, salbe vacance to the ferd day of Nouember inclusiue ; and on the ferd day of the said moneth, to begin and sit quhill Sanct Thomas evin befoir Yule inclusiue; thaireftir to haue vacance to the fourtene day of Januare inclusiue, and on the said day to begin and sit quhill Cairsonday exclusiue, and thaireftir to haue vacance quhill xv dayis eftir pasche, as is abone wruttin.

ITEM, It is devyfit and ordanit that, in all tymes cuming, all the billis be deliuering of billis. Anentis de-  
billis be deliueringit be Johnne Wallace, allanerlie on this maner ; that is to say, in tyme of Sessioun, on the dayis that the Lordis fittis in the Counsalhous ; and that all deliuernace of billis be his hand wrutt, and he to ansuer for the samyn ; and that na vther writtar haue power to wryte ony deliuernace thairon, bot he allanerlie ; and that the kepar of the signet ansuer noct with the signet to ony lettre gevin on ony bill, bot gif the deliuernace of the same be wruttin be Johnne Wallace allanerlie ; and that he, at the end of the bill, subscriue the samyn. And on the balydayis, and uther feriot dayis, quhen the Lordis fittis noct in tyme of Sessioun, that owther the Chancellare, President, or Clerk of Register, beand present with thre vtheris Senatouris with ony ane of thame ; and in tyme of vacance siclike, if thair be samony in this toun of Edinburgh ; and failyeing of the said nowmer, thai that happyngnis tobe present for the tyme quhat nowmer that euir thai be of, fall deliuier the saidis billis concerning all materis, for the quhilkis deliuernace thai salbe haldin to ansuer ;

## ACTS OF SEDERUNT

1555. ansuer; and to that effect, that the Clerk Kepar of the Signet keip and produce the saidis billis, with thair deliuernace foirsaidis to the saidis Lordis, at the first day of the Sessioun eftir euerie vacance; and ordanis, alsone as the billis ar gevin in to the said Johnne Wallace tobe deliuernit, that he present the samyn to the Lordis tobe red incontinent; and in absence of the said Johnne, be the clerk that salbe depute be the Lordis thairto; and that he ressaue na mair of dewitie for deliuernace of ony bill bot iiijd. allanerlie; and gif he takis mair thairfoir nor as said is, he tobe callit and accusit thairfoir befoir the saidis Lordis.

*Anentis examinationoun of witnessas.* ITEM, That the examinatioun of all witnesses be ordourit as eftir followis; that is to say, that thair be twa Lordis of the said counsale, at the exemmyng of the same, ane sprituall ane temporall, with ane scrybe of court to wryte thair depositionis; and gif ony of the saidis Lordis that happynnis tobe away throw sum bissnes that occurris to thame, or obtenis licence of the president to pas to thair lefull bissnes in the tyme that thai salhappin tobe examinatour; that the President fall caus ane vther of the Counsale to supple thair vyce and absence in examinatioun of the saidis witnesses; and that ane tabill be maid of the saidis examinatouris ordourlie as efferis; and that the Lordis examinatouris subscruie the saidis depositionis with thair handis, that thai may ansuer befoir God thairupoun, with ane clerk, as salbe depute be George Gude or Maister James Scott thairto in absence of thame selffis.

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*Anent the ordoure of the Counsalhouse.*

ITEM,\* Anent the ordoure of the counsalhouse, it is devysit and ordanit because thare is five or sex massaris to depend thair-upoune, thairfoir that oulkle ane of the saidis masaris eftir that it cummis to thame be ordour, remane within the bar, ande ordour the same, sa lang as the partiis pleyis thairat, and ane vther to stand withoutt the barr and ordour the same, and the remanent of the massaris to stand withoutt the dur, and the dur to be patent; and ane staff to be put to the samyn; and that all massaris ische furth of the Counfall-house at euery tyme with the partiis, and not to remane nor sitt thairin, bot fall steik thame selffis owt at the vtemest dur, quhill thai be callit onne be the ringing of ane bell, or be command of the President; and that nane of oure Souerane Ladyis liegis hie degré nor law, disobey the charge of the massaris in yscheing and intering of the said Counsalhouse, nor at the vtir barr, nor injiire thame ony way in the tolbuith, vnder the pane of ten pundis, to be payit to the collectouris, and applyit to the commone distributione, and to remane in ward quhair the Lordis plefis quhill the same be payit, except

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\* The following entries have been copied from the MS. Collection in the Advocate's Library—A, 8, 22; fol. 321, 322, in which they are inserted without any date.

cept procuratouris and aduocatis, sa mony as ar admittit ordinare of befoir, with thair clientis, with ane or twa of thair vyse freindis at the maist, quhen thai ar callit onne, owtir to persew or defend quha nes thair caufis actuallie in pley ; and the partiis to be removit owt-with the vtir bar sa sone as thair diett is keipit, and thair mater put to ane point for that day, or vtheris literate young menne havand licence of the Lordis to heir and leir the practik ; and that the masaris ysche the vter tolbuith within the barr ; and that nane inter nor remane within the vtter bar, bot the aduocatis, procuratouris, the said literate young menne, and ane certane of the aduocattis ferwandis, with thair polkis and lettres, as fall be namit and pronuncit be the Lordis ; and all vtheris to remane withowtt the vttir bar, onto the tyme thai be callit onne, except Archibischopis, Bisshopis, Erleis, Lordis, Abbotis, and the Prioris, the Thesaurare, Comptroller, with thair twa clerkis, and ane ferwand with ilkane of thame, the Prouest of Edinburgh, and gret lordis.

ITEM, Albeit it wes statute and ordanit in the actis maid of befoir in oure Souerane Lordis tyme, quhome God assolye, that all partiis, or thair procuratouris, deliuier to the chancellare or president thair actis, billis, and lettres of continewatioun, or thay enter in the tolbuith, or incontinent thairefter, at the charge and warning of ane masar, through non keiping of the quhilk thair is daylie gret tyme tynt in hindering of administratioun of justice, be inopertune solista-  
tion ; heirfoir it is statute ande ordanit, that all actis, billis, and lettres be gewin in at the intre of the Chancellare or President, as said is, or incontinent thairefter, at the charge and warning of ane masar, conforme to the said auld ac<sup>t</sup>e maid of befoir ; and thairefter how sone he fittis doun, or gevis command to reid the billis, or call ony mater, that na man that day fra thine furth, be him self or ony vther immediat persoune speik to the said Chancellar nor Lordis, nor desyre thame to call his mater, nor proceid onywys thairupoune, nor remane langar in the Counsal-house, nor the masaris be commandit to ysche the samyn : and gif ony persoune or partye, owtir perseware or defendant, be thame selfis or ony vther immediat personis in thair name, dois in the contrar heirof, owtir in the Counsal-house, or befoir the Lordis fittand in the vtter tolbuith, thair mater fall noct be callit na maner of way, nor haif forther proces for the first xxx dais thairefter, that the Lordis fittis ffor administratioun of justice, without it be at the instance and desyir of the partie aduersfare : And to that effect, that the Clerk of Registri cause ane of his deputis to note the samyn in the buikis ; and that quhen the house is ischeit, nane remane bot the Lordis havand vote, and the Clerk of Registri's thre deputis allanerie.

ITEM, That na billis be deliuierit owtwith the tolbuith, the Sessioune beand fittand, except priuilegiat materis (vbj periculum est in mora) ; and at the deliuierance thairof, or ony vtheris, quhen the Sessioune sittis, that thair be thre Lordis of the Lordis togidder, the President, and vther-  
or ony vther eldest of the Spirituall Estait, that beis present for the tyme

## ACTS OF SEDERUNT

1605. tyme, being ane of thame, thair beand samony present in the toun,  
vtherwyise samony as ar present, except criminale materis.

*For sum-  
moning and  
warning off  
witnesses.*

ITEM, Quhen vitnessis summondit comperis noct at the first terme, the secund charge vpon thame salbe vnder the pane of rebellioune, and the thrid charge vnder the said pane. With certificatioune, thai salbe denuncit rebellis ; and gif the vitnes compeiris noct at the first charge havand na lauchfull impediment, the producear fall noct be haldin to pay thair expensis, thai beand callit at the first compeirance, and ane ticquet gevin to the vitnes that ar summondit personaly, or at thair duelling place, or to thair wyff or serwardis, to compear befoir vitnes in sic ane mater, sic ane day, and swa verifiit in the officiaris executioune of the saidis lettres.

*For chescing  
of aduocattis.*

ITEM, That na partie cheise first ma aduocattis nor twa, comprehendand thairin his pensionaris, gif he ony hes, with certificatioune that, albeit he haif ma, and mak thame ane counsal in his mater, his aduerfare fall haif ony vther twa he plesis onne his expensis, provyding alwayis that euery partie do lauchfull deligence in tyme to haif his aduocattis reddy at the day of compeirance, but hoip of ferder delay throw pretence of wanting of thame ; and that na aduocattis, withoutt verrie gret cause, refuse to procure for ony partie vpon thair resonable expensis vnder the pane of depriuatioun of thame of thair offees of aduocatioune.

31 Ma. 1605.\*

*The King's  
letter to the  
Lords, anent  
the qualifica-  
tions of  
Lords to be  
admitted in  
tyme com-  
ing.*

THE whilk day Alexander Erle of Dumfermline, &c. Lord High Chancellour of Scotland, exhibite and produced, and presented to the Lords of Counsell and Session this underwritten letter, direct from his most sacred Majestie to the said Lord High Chancellor, and to the Lord President, and remanent Lords of the Colledge of Justice ; whilk lettre, after the same was laid open and unclosed, in presence of the saids Lords, being publiclie read in their awdience, proported the tennor and contents following :

“ Right trusty and weell beloved Counsellors and Coufins, we greet  
“ you heartily weell : That place of session and judicatorie in that  
“ our kingdome, being the supreme and soverane ordinar Court,  
“ representing our royll estate and awctoritie, and being the very  
“ porculace of our obedience within our realme, hes ever bein holden  
“ in that regard with ws, that we will be loath to omitt any thing  
“ undone that may serve in the maintenance of the honourable dig-  
“ nity and auctoritie of the same, that therthrough we may not only  
“ be the better obeyed, that place of session, and these that are pre-  
“ fered to the charge within the samen, may be dewly respected,  
“ and the subjects within that our realme may feell the sueet fruits  
“ of our provident direction and your faithful administration : And  
“ therfore,

\* From Pitmeddan's Abridgmedt, collated with Spottiswood's Practicks.

" therfore, that men unmeet for any such calling sould not presume  
 " to be futers for preferment to any such place, our will and pleasure  
 " is, that, be your acte and ordinance, to be recorded in your books,  
 " it be declared, that none be received in any of the saids vacant  
 " places of Session, that shall heirefter in any manner of way be  
 " voyd, except the partie to be admitted be of the quality, rank,  
 " and condition following: That he be one of the antient, wise,  
 " and learned advocates, who hes given best proof of their wisdome,  
 " learning, honesty, and good behaviour, in the exercise of their of-  
 " fice of procuration; for whilk cawses the Lords of Session, in all  
 " tymes coming, shall have enacted, be their owne election, and en-  
 " rolled in their books, the number of six of the advocates of their  
 " Court, who shall be thought most qualified, expedient, and worthy  
 " to supply any place may hapen to vaik amongst them, who may  
 " be called elected; and as ane of them shall inlaik, ye, and thes that  
 " heirefter shall be in your places, shall name and elect ane uther of  
 " them of the same calling in his place, and so hold the number  
 " ever full of six of the most sufficient advocats, to be preferred be  
 " our nomination into any place that may vaik in Sefision, or then  
 " ane of the principall Clerks of Session, that hes served at the leist ten  
 " yeirs in office, or then that he be one of the Barons or Lords of  
 " the High and Soveragne Court of Parliament, who have received  
 " that dignity to be heritablie in that place, either from ws, or our  
 " predecessors or successors; or then one of their sones lawfull; or  
 " any Knight, who, of his inheritance, may spend of free revenue  
 " to the availl of 2000 li., money of Scotland, yeirly; for such as are  
 " of that rank and moyen are not necessar to be advocats, or to be  
 " constrained to bestow their tyme in service in pleading at the bar,  
 " or usyng of such exercise, to make themselves capable of that ho-  
 " nour, dignity, or preferment, providing they be utherwise known  
 " aud tryed to be sufficiently qualified in learning, wisdom, and good  
 " conversation; and except they be some of thir sorts or conditions  
 " of men, none to be heirefter presented or admitted to any place  
 " of the Session and Colledge of Justice in Scotland. And furder,  
 " for avoiding of ane generall abuse, which hes creped in in all  
 " countries where the places of justice, and highest dignity of admi-  
 " nistration therof, are obteined be corruption and filthie moyan, in  
 " such cases of buying and selling; owr will is, that it be enacted,  
 " that none be received and admitted in tyme coming, but they be  
 " first straitly sworne, that they nether directly nor indirectly have  
 " obtained their presentations, nor procured any uther to demitt, to  
 " the effect that they might be presented be ane sinister moyan, for  
 " gold and silver, or any uther good deed and promise therof, di-  
 " rectly or indirectly; and if ever the contrare be found, they to be  
 " holden as perjured and infamous persons, unworthy to enjoy any  
 " honour or dignity, instantly to be deprived of any place they have  
 " in that Seat, and further to be punished according to the law, as  
 " perjured and infamous persons.

Q

" Moreover,

## ACTS OF SEDERUNT

1546.

" Moreover, our will is, that ye shall sett downe, with present diligencie, ane certane forme of tryall of the sufficiencie and literatur, in learning and knowledge, of all such as shall desire to be admitted to be the Lords of Session, or shall give in presentation to that effect; and generallie, that ye sett downe all such orders, to be kepted be the members of that our Colledge of Justice, as may bring the famen to the wonted honour and due reputation; and so we bid yow heartily farewell. From our manowr of Greenwich, the 20 day of May 1605."

After the public reading of the forsaide letter, the Lords having, with grave and settled judgment and deliberation, considered the subject and contents of the famen, ffinding therin exprest the undoubted proof of the more than princely affection and provident care ever entertained be his Majestie to his Highnes chief Court and superior Seat of Justice, and to the Senators therof, fra tyme to tyme, the sweet fruits quherof, they most intirly acknowledge, hes bein alwise to every ane of them in particular, reaped in superabounding measurs, in regard quherof they, moved with so forceable bands, hes solemnly avowed, in all sincirity of heart, to bestow not only the mean sweetnes of their most humble and serviceable endeavours in the charge concredit to them, but quhatsoever of their life in the service which is most due and justly belonging to so gracious a Sovraigne and Majestie; and to the end this abovewritten letter, containing so clear evidence of the princely fervent zeal caryed be his Majestie for ministering of justice with the integrity thereto appertaining be not hencefurth conceilled, but may be made publict and known to every one; the saids Lords hes ordained this letter, according to his Majesties just pleasure and charge therin expremed, quhilk is in all reverence and humblie accepted be them, and quherunto, with forward minds, they confirmed themselves to be enacted and recorded in their publict registers, and to have the force, effect, and vigowr of ane perpetuall law and statute, quhilk, in uniformity of consent, to have decreed to be, in most strait manner, with all observance and care, keeped in tyme to come. And forsomuch as this ordinance and declaration is speciallie made, quhat ranks and qualities of persons are capable of the places quhilk fall happen hereafter to vaick in Session, amongst the quhilks it is condescended, that ane of the saids ranks shall consist and be filled out with six of the most expert and best qualified advocats, quhom his Hienes has willed to be chosen be the Lords of Session to that effect: they have therfore named and made choyse of thir persons following; that is to say, Sir Jon Sharp, Mr. Thomas Craig, Mr. William Oliphant, Mr. Alexander King, Mr. John Arthur, Mr. Thomas Henderson, all being advocats of their Court, and whose erudition, good conversation, and sufficiency of good qualifications, being worthy of the said calling, renders every ane of them capable of the famen, whilks six advocats the Lords ordaines

daines to be called elected. And quheras also his Majestie, in the ende of the abovewritten letter, has comitted to the saids Lords Senators, the prescribing of ane forme of tryall, quhilk fall be susteined be thes who fall hereafter clame to be received and admitted to the said honowr, quherby his Majestie makes more nor manifest that vehement ardour quhilk his Majestie deteines in the mantaining of the dignity and reputation due to the said Colledge, and to the judicatory and Judges therof, in regard quherof, the saids Lords (imbraceing this his Majesties most lawdable designe, tending to incourage and animate all such as are furnished with meriting gifts to accept guardians in the weill publict due to their vertues, and contrariwise to repel and bear aback vtheris, who of themselves wnworthy, living to preposterous and sinistrous means, labours, be unlawfull mids, to attein to promotion, quhilk ought not thus indirectly to be purchast): Therfor findis and declaris, that whosoever shall heirefter, upon his Highnes presentation, desire to enter in the said place, fall be subject to give proof of their sufficiency, and abyde this forme of tryall following, whilk shall be enjoyned to them, consisting in thir speciaill poyntis, exprest in this order; that is to say, first, The saids Lords hes found it expedient and necessar that the said Lord Chancellar, and, in his absence, the President of the Seffion for the tyme, select and choysse some text, one or mae, as the saids Lords pleases, furth of the body of the writtin law, either civil or cannon, and assigne the samen to the persons claiming the forsaid vacand place, to be treated upon, so that they fall be holden to appear in publict before the saids Senators and Lords, upon the 3d day next after the said place of the law be imparted to them, as said is; and then fall discours in Latin upon the said text, in the Inncourt, quher the saids Lords fitts in administration of justice, such ane competent space as shall be enjoyned and limited to them be the saids Lords. Attowr the said Lord, Chanceller, or President, fall cawse be called in their awdience, either the same day, or any such vther day as fall be thought meet, any of the controverted actions depending before them; the case quherof they fall cawse be at long debated be the parties prolocutours compeiring at the bar, lykas the saids prolocutours shall answer, propon, and alledge all their exceptions, replies, ansuers, and arguments, whilks either of them may alledge *pro et contra* in the said action. And efter that the said action be fullie and at length received, the parties and their prolocutours being removed, as use is, the forsaids persones claming the said vacant place being present all the tymes of the reasoning therof, shall be holden, as be this present act they are ordained, to make exact and perfect relation to the saids Lords of the case and state of the samen action, disputed as said is, and proport the exceptions proponed for the part of the defender, and replies made in order to every exemption, and so furth, to procede distinctly to the replies, and vther ansuers and arguments whilks were delivered before the saids Lords, and allegit for either partie be their saids

## ACTS OF SEDERUNT

1606. saids prolocutours theranent, as said is; whilks premisses being duly and in order discharged, the forsaids personnes shall incontinent declar their owne opinion concerning the said action, and upon the alledgeances and answers proponed be the parties; and reherse and report to them in manner before rehearst; in the declairing of the whilk opinion, it fall be also requisite to the forsaids persons to give their reasones and arguments, quherby they are moved to inclyne to the resolutions uttered be them, in manner forsaid. And this abovewrittin tryall being ended, the saids Lords shall deliberat upon the behavior and discharge given be the saids personnes upon the saids poynts of proof abovewrittin; and accordingly refuse and reclame the forsaid vacand place that person who hes best susteined and born out the said tryall in the sufficiency therunto requyred, and whose qualities and condicions fall be found most agreeable to be answerable to so honorable promotion, and to stand with the circumstances prescribed be the abovewritten ordinance, flowing fra his sacred Majesties abovewritten lettre, registrat as said is; *ultimo Maij 1605.*

To this Act of Sederunt Lord Pitmeddan has, in his Abridg-  
ment, annexed the following note: " This his Majesties lettre,  
" and ordinance conforme therto, above-specifeit, being weill  
" and learnedly conceived, yet appears to derogate, not only  
" to the first direction and institution of the forsaid Colledge,  
" but also to the speciall acts of Parliament abovewritten,  
" &c.; and therfore ought to be well and wisely considered."

The Book of Sederunt of the Lords of Council and Session, from May 1608 to November 1626, appears to have been lost in the year 1674; and no accurate or authentic transcript of it is known to exist. But various notes and abstracts of Acts of Sederunt during that period have been found in the Manuscript Collection of Sir John Lauder of Fountainhall, now preserved in the Harleian Library, No. 4642; in Pitmeddan's Abridgment; and in some other Manuscript Collections in the Advocates Library. From these the following articles have been selected.

1609.

28 Jun. 1608.

**S**IR ANDREW HAMILTON of Reid-hows, produced in presence Admission of of the Lords the King's lettre requiring the saids Lords to a judge. take notice of his qualifications, Sir Gideon Murray, and Mr. Thomas Hendersone, one of the Commissars of Edinburgh, to admit Pitmeddan's MS. and Harl. MS. the best qualified of the thrie to the ordinar place of Session, possit before be Mr. Thomas Hamilton of Preistfeild, father to the said Sir Andrew, and vacand be his demissione. The Lords, after tryall, ordained the said Sir Andrew to open up and expone ane place in the law, and give his opinion of all controverted actions reasoned in their audience, upon the last of June 1608: Admitted the said Sir Andrew to his father's place *ad vitam*, conforme to his presentatione.

22 Dec. 1608.

**S**IR ALEXANDER DRUMMOND of Medhope, knight, produc- Admission of ed in presence of the Lords his Majestie's lettre requireing them a judge. to take tryal of his qualifications, Mr. Peter Rollock of Piltoune, and Harl. MS. Mr. James Henderson, advocatt, and to admit the best qualified of the thrie to the place of Session. The Lords admitted the said Sir Alexander to the ordinarie place of Session.

22 Feb. 1609.

**M**R. ROBERT STEWART, burges of Glasgow, wes, for his mis- Robert behavior in the Utterhows, acted, that during his lifetyme he Stewart pu- nished for misbehavi- should not enter in the Innerhowse, nor the inner bar of the Utter- our. Pitmeddan, MS. and Harl. MS. hows, under the Payne of 100 merkes, *totes quoties*.

6 Jun. 1609.

**T**HE Chancelar presented the King's lettre, of the date the 9 May 1609, requiring to choyse, be the advyce of the Erle of Dum- President choen. bar, the best qualified of their number to the place of Presidency, Pitmeddan and Harl. vacand be the laird of Balmerinoch; conform quharunto they choyfed MSS. Mr. Jon Prestoun dureing his lifetime.

*Eod. dte.*

**S**IR WILL. LIVINGSTOUN of Kilsyth, knight, presented, in Admission of presence of the Lords, a lettre fra the King, dated the 9th May 1609, requyring them to take tryall of the said Sir William, Mr. Jon a judge. Pitmeddan and Harl. Jonstoun, and Mr. Alexander Livingstoun, advocates, their qualifi- MSS. cations, and to admitt the best qualified of the thrie to the ordinar place of session; conforme quharunto the Lord Kilsyth, efter ordinar

R tryall,

## ACTS OF SEDERUNT

1610. tryall, wes admitted. But the act makes [no mention whither *ad vitam* or not.]

*Ult. Nov. 1609.*

Yulevacance.  
Pitmeddan  
and Harl.  
MSS.

THE Lords, conforme to the King's letter produced be the Chan-  
celar, ordained the yule vacance to be and continue from the  
24th December to the 6th January *inclusive*, during which tyme all  
the inferior judicatories sould likewise cease. And also ordained,  
that when the feist of Whitsunday sould fall within the tyme of their  
sitting, they sould then arise upon the Friday before, at 12 acloak, and  
not fitt whille Wednesday thereafter in the morning, and likewise or-  
dained the 5th of November in memory of his Majesties delivery fra  
the powder treason to be vacance,

*30 Jan. 1610.*

Pitmeddan's  
MS.

SIR ALEXANDER HAY admitted as a judge upon trial with two  
others as before.

*1 Feb. 1610.*

Concerning  
cautioners.  
Spottiswoode's  
Pract. p. 34.  
Pitmeddan  
and Harl.  
MSS.

THE Lords statute and ordain, that upon all contracts, bonds, and  
obligations made between principal parties and their caution-  
ers, bearing the clause following, viz. *That the principal party bind and  
oblige him, his heirs, executors, and affigneys, to warrant and relieve his  
said cautioner of the whole contents of the forsaid contracts, and of all cost,  
skaitb, damage, expences, and interest, that they, or either of them, their  
heirs or affigneys, may any ways sustain or incur theretbrough;* they will  
grant in time coming against the saids principal parties, their heirs  
and executors, action at the said cautioner's instance, their heirs  
and executors, and in their favours, immediately after they be dis-  
tressed and compelled to fulfill the contents of the said contracts, by  
payment of the sums therein contained, or by poyn ding of their  
goods, or comprising of their lands for payment thereof, not only for  
recovery of the principal sums contained in the saids contracts, but  
also to compel them to repay, with the saids principal sums, the whole  
annualsents, extending to ten for the hundred of all years and terms  
bygone, that the saids cautioners has been compelled to satisfie the  
saids sums, or their lands or goods has been comprised or poyn ded  
therefore: And also to content and pay to the saids cautioners, their  
heirs and executors, yearly and termly in time coming, ten for the  
hundred, ay and while the said principal sum be repayed to them and  
their foresaids.

*16 Maii 1610.*

Re-admission  
of an extra-  
ordinary  
Lord.  
Pitmeddan  
and Harl.  
MSS.

M R. PATRICK ROLLOCK of Piltoun, having before bein dispos-  
est of his extraordinar place of Session, becaws there wes more  
then four extraordinars, he wes displaced to reduce them to the same  
number of four, wes, upon the Kingis letter, dated 5th Aprile 1610,  
restored

restored to his place extraordinar, with special provision that his admission fall not be a preparative thereafter to establish the 5th extraordinar. 1610.

17 Nov. 1610.

**T**HE whilk day, in presence of the Lords of Counsel compeir'd the Certain articles proposed by the advocates, and approved of by the Court, for the correction of abuses. Pitmeddan's MS.  
haill number of the ordinar advocates of their Court and Session, who being desired of before be the saids Lords, to meet and conveine amongst themselves, that they might deliberat upon som best overtures whilk might tend to the remedy of divers abuses, whilks creeped in amongst them, and after their deliberation, to present the saids overtures before the saids Lords, that they might consider the same, and allow therof as they fand meet and expedient : The saids advocates, according to the command forsaide, efter they had conveened and advised amongst themselves, presented the overtures underwritten, to be read and considered be the saids Lords, of the quhilk the tennor follows.

" The haill advocates being conveened, according to their Lordships ordinances, having weighed the causes of their meeting, does in all humility acknowledge the singular care and affection qubilk the said Right Hopourable the Lords of his Highnes Counsell hes for the reestablishing of the wonted glory of the seat of justice, and for repairing of the breaches thereof, and wishes fra their hearts they might be answerable in some measure to their Lordships good intention ; and seeing the decay is so sensible and universal, that it hes more need to be cured nor inquyred, they leive unto their Lordships as the head their owne rowme and place for redresse of the same : And yet, as members of the same body refents their own evills, they have all in one vote, by solemne promise and attestation, and by a singular manner resolved, so far as in them lyes, to cutt off all occasions that the evill begun spread no furder amongst them.

" They lament in the first, the contempt unto the whilk their calling of advocation, quhilk wes once honorable, is brought ; and amongst uther cawses thereof, they find the neglect of a just tryall, which is requisite in the most mechanick callings, is the principall ; the omission quherof hes produced, in a short tyme, ane evill which is almost incurable ; in such sort, that the name and estimation of ane advocat hes become vile, and hes left the former beauty ; and that not without some imputation to the honourable seat of the College of Justice, in the quhilk they serve. For remeid whereof, it is humbly craved of the said most Honourable Lords of his Majestie's Counsell, that there be ane act made, ordaining that none heirefter be admitted to the said calling of advocation before your Lordships, except thos who, efter they have past their course of phylosophie, hes bein brought up in some university, as student to the lawes, be the space of two yeirs or therby ; and who, before their admission, shall give ane proof of their qualification, or else that they be such as have been brought up with old learned advocates be the space of seven

## ACTS OF SEDERUNT

1610. " seven yeirs ; and who, before they be heard, to give in their petition to the saids Lords concerning their admission to the said calling, shall be holden to give some proof of their ability to the advocates, and fall report their testimoniall ; and that no advocat presume to the said calling, except he be speciallie assited and recommended to the saids Lords be the Right Honourable his Highnes advocat for the tyme, according to the custome observed in vther countries.

2. <sup>Marking the appearance of</sup> " Next, it wes found that there is a great abuse committed in marking of the compeirance of procurators, partly at the first calling of the caws to sie the proces, partly in the acts of the continuation of the summons, which bydes dyet and table, and partly at the giving of decrets, quharin no partie nor procurator compeirs for the fewer, whilks for the most part are done without the knowledge of the advocat who is marked compeiring, and that be such persons who are not authorized to have place within the suprem court, and quherupon there ensues many inconveniences which are not needfull to be exprest ; for removing quherof, it is humbly craved that ane act be made be their Lordships, inhibiting the clerks and their servants to mark any advocat compéiring either to sie the proces, or to produce ane principall, or to awthorize ane continuation of summons, that bides dyet, or in decrets that passes for not compeirance, except the said advocat be present himself, or his ordinar servant, who knows his master to have speciall employment therein.

3. <sup>Place set apart for advocates and their clerks.</sup> " Item, that confusion in the Utterhows may be reformed from the great repair of the leiges, and vther persones, such as agents who are unprofitable, within the place appointed for the advocats and their servants; it is humbly craved, that according to the approved forme of the most renowned justice seats in Europe, places may be appoynted for the advocats and their servants in such seemlie forme as their Lordships fall think meet, and that strict order be given to the macers, that they suffer no persons to have entry within the utter bar, but speciallie men with spurs, and agents, against quhom there is many good acts and statutes made of before.

4. <sup>No sollicitation for calling of causes.</sup> " It is statute and ordained, if any person or partie, either persewer or defender, be themself or be any vther immediat person in their name, solist or speak to the Chancelar, President, or Lords, or defires them to call his action or proces any wayes thereupon, that his action or matter fall not be called in no manner of way, nor have furder proces for the first thirty days thereafter that the Lords sits for administration of justice, except it be at the instance and desire of the partie adversar. The like shall be done to them and their actions who happens to remaine longer in the counfell-howse nor the macers be commanded to ische the same ; and to this effect that the Clerk of Register cawse one of his deputes notte the same in their books, so that quhen the howse is ished, none remiane but the Lords having vote, and the clerks who are deput to the said Clerk Register.

" ITEM,

“ ITEM, to the effect that the advocats may come the better prepared to dispeate grave causes, as is requyred in the Lords haill <sup>1610.</sup>  
 “ fence, it is statute there be ane roll of such cawses affixt upon the <sup>5.</sup> wall in the Inner or Outer-House, and that the said order be fol-  
 “ lowed without interruption. <sup>Roll of causes to be affixed on the wall.</sup>

“ ITEM, for calling of cawses in the Utterhows, it is also statute, <sup>6.</sup>  
 “ that this order be obserued for avoyding of confusione, viz. that in <sup>Order of calling causes in</sup> the first place, the acts of witnessies be called; next the interloquutors <sup>the Outer-</sup>  
 “ reported, and prosecute while it come to *litis contestation*; thereafter <sup>House.</sup>  
 “ the causes of the poor and ministers; and then in the end, all uther  
 “ cawses *promiscue* to be called be the ordinar Lord.

“ ITEM, for eschewing of questions that falls out concerning the <sup>7.</sup>  
 “ minuting of alledgeances, it is statute, and the Lords enjoins to the <sup>Minutes.</sup> clerks and their servants to have special care therof; and that the same alledgeances, as they are minuted, be read to the Lords the tyme of the advising of the cawse, and read to the procurators the tyme of reporting of interloquutors.

“ The Lords fand expedient, that in all time coming there be four of <sup>8.</sup>  
 “ their ordinar number appoynted for bills and witnessies, whereof the <sup>Four Ordinaries for bills and witnessies.</sup> haill four, at the leist thrie, shall be ever astricte to attend together upon the examination of the witnessies, and the haill four shall agrie amongst themselves quhilke of them shall passe and hear the caws reasoned in the Utterhows be the space of 15 days togither; efter the ische quherof, the Lords appoynts other four of their number to succeed in the like place, and so *successive*, four and four, whille the course come about the number, and to return to the four who first possest the first place again, according to this order of division underwritten, viz. they appoint the Lords Maircarny, Kilsyth, Edyell, and Whittingham, to enter upon Tuesday the next week, and to continue quhill 15 dayes, and the next 15 dayes, they appoynt the Lord Advocate, Reidhouse, Fosterfeatt, and Privy Seall; and after them, Wrightslane, Secretar, Tungland, and Meidhope, for other 15 dayes; and in case of any of their absences, the Justice Clerk to supplie their place; and so furth to return again to the first four, and to proceed orderly according to this division in tymes coming; and ordained the Lord Examinator, who hears the witnessies examined, to subscribe, at all the dyetts, the depositions of the witnessies quhilke he examinats, and to caws the famen be closed be the clerk of the proces, and stamped be the clerks proper stamp, and so to remaine closed quhill the famen be opened in presence of the Lords at the advising of the proces.”

Whilk haill articles abovewrittin being sein, read, and considered be the saids Lords, they have allowed the desire of the abovewrittin articles, and all therof; and according thereto, hes ordained the same to be insert in their registers, for a record of their authoritie interponed thereto; whilks the saids Lords declairs they would observe

## ACTS OF SEDERUNT

1612. and give such order for ane pertinent course in all the premises, to be taken and kept therein as apperteins, and as they shoulde find meet and expedient, in all tyme to come.

4 Dec. 1610.

Admission to attend the Court. Pitmeddan and Harl. M.

**T**HE Kings letter was presented, bearing, that forsomeikle as the Erle of Dumbar, being charged with all his Majesties offices of thesaury, comptrollery, and collectory, and the thesaury of augmentations, his Majestie thought it expedient, in regard of the great burdens, and of the great respect his Majestie esteemed due to the said noble Erle be the saids offices, that he shoulde have acceſſe in Session to ſie and hear matters decided, whilk his Majestie thought nowayes expedient to no other person; wherunto the Lords accorded, and ordained ane act to be made therupon.

16 Jan. 1611.

Admission of a judge without trial. Pitmeddan and Harl. MSS.

**M**R. WILL. OLIPHANT wes, upon the King's ſpeciall recommendation, be two ſeverall lettres, admitted to the ordinar place of Session during his liftime, vacand be the deceas of the Lord Edyell.

Uk. Jul. 1612.

Suspensions. Pitmeddan.

**T**HAT all ſuspensions ſould contein the names of the Lords who past the bills. \*

16 Nov. 1612. †

Anent the possession of kirk-lands. Spottiswoode p. 190. Pitmeddan and Harl. MSS.

**T**HE Lords of Council and Session confidering, that at the time of the Reformation, the old foundations, mortifications, and other writts and securities of kirklands and rents, were, for the moſt part, destroyed and lost in that troublousome time; upon confideration whereof, the Lords of Council and Sessione for the time, and ſince, have been in uſe to decide all controversies arising upon the rights of kirk-lands, where no mortifications, infestments, nor other rights or titles by writ were extant, by their poſſeſſion which the ſaids kirk-men had of the ſame kirk-lands and rents the time of the Reformation, and by the ſpace of ten years immeadiately preceding the ſame: And now the ſaids Lords, understanding that it is above fifty years ſince the ſaid Reformation, ſo that after ſo long a ſpace, witneſſe cannot be had to prove and verify the ſaid kirk-men's poſſeſſion of their kirk-lands and rents, ten years together before the ſaid Reformation: Therefore the ſaids Lords preſently declare, that in all time

\* In the Harleian MS. this entry is as follows: "In all ſupplicationes ſhould be contained the names of the Lords who delyver the bill."

† In Spottiswood this article is dated the 16th of December.

time to come, after the date of this present act, they will decide all questions arising betwixt parties anent the rights of kirk-lands, and livings pertaining to kirk-men, by their possession of the same kirk-lands and rents thereof for the space of forty, at least thirty, years, continually and immediatly preceding the intenting of their actions, or proponing of their defences concerning their rights to the saids kirk-lands and rents thereof, in all time hereafter ; to be proven by famous witnesses, when all the foundations, mortifications, and other authentick writs shall not be alledged nor produced in judgement, to verify the saids kirk-lands and rents to appertain and to have appertain'd to the kirk of before.

1613.

11 Jun. 1613.

**I**T is declared, that it shall not be lawful for any man to arrest in Arrestment the treasurer or receiver's hands, any pension, fies, monthly wages, or other sums of money directed to be paid to any by precept from his Majesty, and that notwithstanding of any such arrestment, the treasurer, &c. may make payment of the saids pensions, &c. to them that has right thereto, without danger to have these sums re-peated from them by the arresters.

of pensions.  
Spottiswoode  
p. 228.  
Stair's Inst.  
B. 2, tit. 5,  
§ 18.—B. 3,  
tit. 1, and 37.  
Pitmeddan  
and Harl.  
MSS.

18 Jun. 1613.

**T**HIS Lord's statute and declared, that it might be leisome to any person having interest, to charge the appearand air to enter air against ap-parent heir to his defunct predecessor within yeir and day ; but that it sould not be lawfull to raise summonds and intent action upon the said charge whille yeir and day expyre.

Charge a-  
gainst ap-  
parent heir  
to enter.  
Pitmeddan  
and Harl.  
MSS.

2 Nov. 1613.

**S**IR GIDEON MURRAY wes, upon the King's presentation, admitted to the ordinar place of Session possest before be Mr. Will. Melvill, and without any triall of the said Sir Gideon, as is aforsaid. The Lords dispensed, becaus of the certaine knowledge they had of his qualifications.

Judge admis-  
ted without  
trial.  
Pitmeddan  
and Harl.  
MSS.

23 Nov. 1613.

**W**HEREAS there has been great prejudice sustain'd by the King's leiges in the raising and prosecuting of charges direct upon decrets recovered before the Lords, seeing the same, according to the custom formerly observed, did consist most part in letters of four forms, which manner of execution, besides the length of time, and expenses bestowed by the party charger, has also now, after long experience, brought forth many other abuses, as well in the disorderly as the base execution of them : Therefore, for eschewing of these

Charges on  
decrets.  
Spottiswoode  
p. 149.

1613. these inconveniences, and that a more summar form of procedure may be observed hereafter, with greater ease to the charger, and less prejudice to the party charged ; the Lords have ordain'd, that upon all decrets given by them, whereupon letters of four forms have been accustomed to be direct, letters of horning, upon a simple charge, shall hereafter be directed, upon fifteen days against such as dwell by-south Dee, and upon one and twenty days against them bynorth the same ; which charge shall be given, either personally or otherwise, at the party's dwelling and the parish kirk thereof conjunctly, upon a Sunday before noon, in time of preaching or prayer, whereof a copy shall be left upon the most patent door. And to the intent that all the subjects may receive notice of this ordinance, the writers to the signet, who shall hereafter writ any letters or summonds, which formerly contain'd a clause that letters and charges should be directed against the party generally, shall instead thereof express specifically the form of the saids letters and charges, conform to the manner hereafter prescribed. And because sundry messengers at arms, being called for improbation of their executions, and decrets pronounced against them, continue yet in their offices, because the leiges are not certified thereof ; for remedy hereof the clerk of the proces shall hereafter insert in all such decrets the deprivation of the officer ; and that intimation be made by the clerks, at the pronounciation of the said sentence of deprivation in the Outer-House, that the Lyon direct a precept of publication thereupon to be proclaim'd at the mercat cross of the head burgh where the officer dwels, to the effect that thereafter his executions may make no faith, and he be punished in his person for unlawful usurpation of the said office. And it shall not be lawful to the Lyon to repone any such officer deprived, without the special consent of the Lords.

23 Nov. 1613.

Caution in suspensions.  
Spottiswoode p. 324.  
Pitmeddan and Hart. MSS.

**F**OR remedy of the frequency of suspensions, whereby the execution of decrets and sentences is frustrated, the Lords did statute, that in the delivering of suspensions hereafter, caution should not only be taken for obedience of the charge, but also for refunding to the charger such expences as the Lords should modifie at the discussing of the suspension ; and also for payment to the Lords collector, such penalty as they should impose upon the suspender for his protracting of the plea wrongously : And if any suffer two protestations to pass against him upon copies of several suspensions, the Lords shall modifie both expences and penalty, in the same manner as if the suspension had been decided by compearance of the party : And if the suspender shall be found to be maliciously charged, the charger shall underly the same pain : And that no suspension be granted upon consignation, except it be first verified to the Lords that real offer has been made to the party of his money, and that he refused the same, and no otherwise.

7 Decem.

1613.  
7 Dec. 1613.

**I**T is statute, that whenever any summons, exception, or reply, shall be referred to the party's oath of verity, he who is to give his oath thereupon shall be obliged, at the dyet assigned to him for that effect, to declare judicially any condition he intends to adject to his oath; which if he omit to declare in judgment before he depone, the Lords declare that no respect shall be had to any such condition <sup>Concerning oaths of verity.</sup> <sup>P. 244.</sup> <sup>Spottiswoode Pitmeddan and Harl. MSS.</sup>

adjected, but they will advise the proces, and find proven or not proven, according to the tenor of the oath, without any respect to the condition adjected in his deposition, and not declared in judgment. And if any such judicial declaration be made by the party to be sworn, that he intends to adject any such condition to his oath; in that case it shall be lawful to the party that refers the summons, &c. to his adversary's oath, to resile from that manner of probation and use any other lawful manner, as if he had not referred the matter to the party's oath.

18 Dec. 1613.\*

**T**HE Lords considering, that by a long consuetude within the free burrows regal within this kingdom, any man challenged by any burges for debt, upon direction of one of the baillies, has been apprehended until caution was found *de judicio fisci*; which caution the officer was wont to receive, and whereof there was no other record but the officer's naked affirmation, which did engage the cautioner, albeit the challenge had been never so great; which was a matter of too great trust to be laid on such persons, the daily pratique not admitting the payment of more than 100l. to be proven by witnesses: For remedie of this abuse hereafter, it is statute, that if the debt wherefor one shall be challenged, exceed 100 merks, the cautioner (if any be offered) shall not be received by the officer, but shall act himself in the Town Clerk's books by his own hand-writ, or, if he cannot writ, by the subscription of one of the Baillies and the Town Clerk, and no otherwise; and the Clerk only to take two shilling for the same from the party charger. Sicklike, he that defires a Baillie to arrest any person, shall act himself, or if he be not responsal, a good cautioner with him, for refunding all cost, skaith, and damage the party arrested shall sustain in goods or credit, if it shall be found after tryal that he had no just reaon to arrest him, as likewise to infist in the purfuit the next court day; otherwise the party being warded shall be put to liberty, or if he has found caution, the cautioner shall be declared free; but in all other matters within 100 merks, for which any shall be arrested, the old custom of burgh shall not be altered.

T

28 Dec.

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\* In the Pitmeddan and Harleian MSS. the substance of this act is given in a more abridged form.

1618.

9 Jan. 1613.

Registration  
of letters of  
horning.  
Spottiswoode  
p. 149.

**A**N act of Seffion made, that whensoever any letters of horning are presented to the Clerk Register's Deputies, Sheriff Clerks, or Clerks of Bailliaries, Stuartries and Regalities, to be registrat in their books, that they deliver not the same forth of their hands again unregistrat or unmarked, albeit the parties should consent and agree amongst themselves; and in case they do in the contrary, it shall be a lawful cause of deprivation.

11 Feb. 1617.

Registration  
of privy seal  
writs.  
Spottiswoode  
p. 272.  
Pitmeddan  
and Harl.  
MSS.

**T**HE Lords ordained that no signature or other wryt whilk passes only the privy seall, and comes not to the great seall, be registrat in the privy seall register, untill the same be brought back again sealed with the privy seall and ordained the same to be registrat within 15 days after the sealling.

28 Mar. 1617.

Extraordi-  
nary Lords.  
Pitmeddan  
and Harl.  
MSS.

**T**HE King's Majestic, by his letter, promised that since Blantyre wes dead, who wes the 5th extraordinar Lord, there sould remane but only four therafter.

Ult. Jul. 1618.

Concerning  
suspensions.  
Spottiswoode  
p. 324.

**S**TATUTE by the Lords, that no eiked reason of suspension be received, except such as shall be delivered with the rest of the peices the time of the first calling of the suspension, for seeing the peices at the bar; and no eiked reasons to be admitted after sight of the peices.

Ult. Jul. 1618.

Signatures to  
be formed by  
writers to the  
signet only.  
Spottiswoode  
p. 359.  
Pitmeddan  
and Harl.  
MSS.

**B**ECAUSE of the abuses by inserting of unreasonable and unusual clauses in all sorts of signatures, it is statute by the Lords, that all signatures be only form'd by the writers to the signet, who shall be astricte to mark them on the back with their ordinary sign and subscription manuel, under the pain of deprivation; and discharge the thesaurer, comptroller or collector, clerk, presenter of the signatures to the Lords compositors, to present any but them that are so marked.

12 Feb.

1620.

12 Feb. 1619.

**T**HE Lords ordained that every advocat to be admitted shoulde give, <sup>Admission of advocates.</sup> at his admission, ane book, whilk shoulde have been erected, <sup>Pitmeddan</sup> the works of any one of the Doctors of Lawes, as shoulde be enjoyned to <sup>and Harl.</sup> him be the Dean of Faculty. <sup>MSS.</sup>

27 Mar. 1619.

**T**HE Quenis Majestie deceast upon the 3d of July 1619. The Authority of Chancelar produced in presence of the Lords of Session, his <sup>the Court given to a</sup> Majesties precept direct to the Erle of Rothes, shirreff, principall of <sup>seisin in fa-</sup> Fife, and his deputs, commanding (since the right high and mighty <sup>vour of Prince Charles.</sup> Prince Charles wes nearest and lawfull air, procreat betwixt K. James Pitmeddan and umquhill Q. Anne his dearest spous, of the lands and lordship of <sup>and Harl.</sup> Dumfermline), him to passe and give saisine to the said mightie Prince <sup>MSS.</sup> of the faids lands, with the pertinents, as nearest air forsaide, and therfore commanding the Lords of Session to interpone their authoritie to the said precept and saisine to follow therupon, whilk his Majestie promised to ratifie the next Parliament ; conforme to the whilk command, the Lords interponed their authoritie.

23 Feb. 1620.

**T**HE Lords conforme to his Majesties letter, direct to them, or-<sup>Against</sup> dained, that no Lord of Session, ordinar or extraordinar, <sup>Lords of Session hold-</sup> shoulde brook nor posseesse the office of ane inferior judicatory. <sup>ing any inferior office of judicatory.</sup>

8 Jun. 1620.

**T**HE Lords of Counsell interponit their authoritie to K. James <sup>Principality of Scotland.</sup> his letter, quhereby his Majestie constitute the government of <sup>Pitmeddan</sup> the affairs concerning the principality as to his dearest sone Charles, <sup>and Harl.</sup> Prince of Scotland, &c. and ordained all wryts concerning the prin- <sup>MSS.</sup> cipality to be past under Prince Charles his owne name and sealls.

13 Jul. 1620.

**T**HE Lords declared that in all actions intendent be a true cre-<sup>Concerning alienations by insolvent persons.</sup> ditor for recovery of his just debt, they will decern all aliena- tiones made be the debtor of quhatsumever his goods to any conjunct or confident person, without just pryece reallie payed, the same being <sup>Pitmeddan and Harl.</sup> done efter the contracting of debts fra the creditor, to be null at the <sup>MSS.</sup> instance of the creditor, either be way of action, exception, or reply, without farder declaration ; and in case ane thrid persone obtein disposition from the interposed person *titulo oneroso*, they nowayes being accessory to the frawd, the disposition shall be valid to the thrid person, but the pryece delivered to the interposed person shall be forth-coming

## ACTS OF SEDERUNT

1622. coming to the true creditor ; and if the saids defenders shall make any farder or voluntar payment to any creditor in defrawd of the more tymely diligence of another creditor, he who used the greatest diligence shall have action of repetition of that whilk wes voluntarily payed to the uther creditor in defrawd of his diligence.

28 & penult. Jun. & 3 Jul. 1621, respective.

Three conjunct clerks of Session admitted. Pitmeddan and Harl. MSS.

**M**R. ALEX. GIBSON, Mr. Alex. Hay, and James Scott, wes admitted Clerks to the Session, conjunct with Mr. Alex. Gibson, elder, Mr. John Hay, and Sir William Scott, during all the dayes of the longest llyar.

3 Jul. 1621.

**T**HE Lords ordained that they would admitt no mac Clerks of Session but thrie.

23 Mar. 1622.

Concerning protocols of Clerks of the town of Edinburgh. Pitmeddan and Harl. MSS.

**T**HE Lords upon ane supplication given in be the towne of Edinburgh, granted to them that the first prothocalls delivered to their clerks the tyme of their first admission to the office of nottary, shall only be marked, and not the remanent prothocalls which they shall use thereafter ; and also that the Clerks of the towne of Edinburgh shall not be oblieged to insert all instruments in their prothocalls, as other nottars does.

6 Dec. 1622.

Suspension of diligence against a sick person. Pitmeddan and Harl. MSS.

**S**IR JOHN HOME of Coldingknowes, Knight, being incarcerated in the tolburgh of Edinburgh, the Secret Counsell gave command to the Provost and Baillies to transport him, immediatly after the charge, to the howse of one Sarah Carmichaell, indweller in the said towne ; whereupon the towne of Edinburgh gave in supplication to the Lords, desiring their Lordships to suspend the letters and executions raised at the instance of all personnes against him, becaws the creditors might convein them and obtain payment of the soumes of money wherfore he wes incarcerated. The Lords thought the bill reasonable.

27 June

## OF THE COURT OF SESSION.

1626.

27 June 1623.

**I**T is statute by the Lords, that in deducing of all comprisings in Anent com-  
time coming, there shall interveen fifteen free and compleat priings.  
days between the day of the denunciation and the comprising, ex-  
cluding both the said days: And whatsoever comprising is otherwise deduced, the said defect shall make the comprising fall and become null; which nullity shall be received summarily, as well by way of exception and reply, as by way of action; and this act to be extended to all comprisings already deduced before this statute, providing always that the saids comprisings haue not taken effect by charter and seafin following thereupon, and be not cloathed with real possession conform thereto; against which this forsaid nullity shall noway strike nor militat.

Spottiswoode  
p. 44.  
Durie, p. 65.  
Pitmeddan  
and Harl  
MSS.

Penult. Jul. 1623.

**T**HE Lords ordained that no action of dyvors craving to be put to liberty, be decerned in the Utter-Howse, but in the Inner-Howse.

Action for  
liberation of  
debtors to be  
judged of in  
the Inner-  
House.  
Pitmeddan  
and Harl  
MSS.

14 Feb. 1626.

**S**IR JAMES SKEIN of Curriehill, Sir William Livingstoun, Sir George Erskine, Sir Alexander Gibson, Sir Alexander Hay of Forresterfeat, Sir Andrew Hamiltoun of Reidhowse, Innerpeffer, and Chesters, all senators of the Colledge of Justice, not adhering to the right of their places whilk they had from his Majestie, conforme to the first institution, were of new again admitted to their places be the Erle of Wintoun vice Chancelar, who had comission from his Majesty for that effect.

New admis-  
sion of  
certain  
Judges.  
Pitmed. and  
Harl. MSS.

Eod. Die.

**S**IR ROBERT SPOTSWOOD of Newabbay, wes admitted to the place of the Erle of Melros, Mr. Alexander Seton of Kilcreuch, in the place of Sir Archbald Naper, and in the places *respective* of John Erle of Lawderdale, David Lord Carnegie, Sir Richard Cockburn of Clerkingtonwe, Sir John Hamiltoun of Magdalens, and Sir William Oliphant, Sir George Auchinleck, Sir Alexander Naper, Sir Archibald Acheson, Mr. James Banatyne, and Mr. Alexander Morison, were admitted be the said vice Chancelar, conforme to his commission, and their presentations granted them be his Majestie.

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10 Nov.

## ACTS OF SEDERUNT

1626.

10 Nov. 1626.

Directions from his Ma-  
jesty for or-  
dering of the the act made 3 Decem. 1619, anent seeing of processses.

Session. 2do. That the processses may be divided at twelve hours every day  
Spottiswoode p. 367. equally among the clerks.

3rdo. That no Lord of Session go to the examination of witnessses,  
except the Ordinary, or such as shall be appointed by the Lords judi-  
cially in open Session.

4to, That a bill of the parties expenses of plea be given in her-  
after to be advised with the process, that thereupon the Lords may  
modifie the expenses in the decret.

5to, That no submission of parties be accepted by the whole Lords,  
nor be required of them from the parties.

6to, That all causes of importance and difficulty be pleaded by  
writ, and subscribed by the parties advocat.

7mo, That two Lords sit in the Utter-House continually, the one  
to expedie all matters the first week, and the other but to be the assessor  
that week, and the laid assessor to expedie all busines the second week  
as only speaker, unto whom another Lord is to be joined that week  
as an assessor in place of him who was speaker the first week, and so  
successively from week to week ; for so all business may be the more  
quickly dispatched, and with less pains and more knowledge to the  
judge.

8vo, That no man stay to the hearing, advifing, or voting, but the  
Lords of the Session and clerks of the process.

9mo, That the Lords appointed for the bills, and clerk of the bills,  
sit upon the bills after noon only, and report the next morning there-  
after.

10mo, That the act anent importunat Sollicitors, made 13 July  
1596, be revised, and put in due execution.

11mo, That the act of sederunt made 24 May 1595, anent the  
continuation of summondess, be revised and kept in use hereafter.

12mo, That the act made 27 July 1599, anent suspending of de-  
creets upon liquidat sums, be revised and put to due execution.

13mo, That the act made 19 January 16 . . years, anent the extract-  
ing of interlocutors, and the act made 5 March 16 . . years, anent the  
reporting of interlocutors, be revised and put to due execution.

14mo, Also the act made 16 November 1602, anent suspensions  
granted contrary to a warrant.

15mo, The whole act made 14 January 1604, be revised and duly  
execute, except only so much thereof as concerns the choosing of the  
Lords of Session, being only proper for ourselves in right of our  
royal prerogative, wherein nevertheless we intend to use the opinion  
of the Lords of Session. Dated Whitehall, 10 Nov. 1626.

1626.

Ul. Nov. 1626.

THE quhilk day this underwrittin supplicatione wes read in presence of the Lords of Counsell, of the tenor and contents folowing:—“ My Lords of Counsell, unto your Lordships humbly sheweth, John Earle of Marr Lord Erskine and Garioch, &c. High Thesaurar of Scotland, Sir Archebald Naper of Merchistoune, Knight Thesaurar Deput to his Majesty of the said kingdome, Sir Hendrie Wardlaw of Pittrevie Knight, and Sir James Baillie of Lochend Knight, receaver of his Majestys rents; that where albeit it hes pleased his Majesty, of his princely liberality, to grant and bestow to certane persones, certane pensions, yearly fies, monethly wages, and to some other, certain precepts direct be his Majesty under his Majestys owne hand, for answering to them of certane sowmes of money, for fick weightie causes and good respects as is nottour to his highnes; yet nevertheless there are certane evildisposed persones who, being of intention to croce the forenamed persones, his Majestys fiewers and others foresaids, in the uplifting and receiving of their saids yearly fiewis, emtions monethly wages, and other sowmes direct to be given them e precept; and alleidging that the saids pensioners, fiewers, and others foresaids, to be adebted to them in particular sowmes of money, hes therupon caused fence and arrest in the hands of the saids persones, fies, pensions, monethly wages, and other sowmes direct to be delyvered by precepts, to remain in their hands, and to be furthcomeand to them in payment and satisfaction to them of the saids debts restand to them as said is; sua that either we shall be repelled to disobey his Majestys precepts, and frustrat his fiewers and pensioners of that quhilk his Majesty has designed to them, or else to undertake the burden of their haill debts auchtand be them to their creditors upon us; and we will be forced to answer therfore as arrested in our hands in manner foresaid, against all reasone and equity, except your Lordships provy remeid thereto; herefore sieing we are mest willing his Majestys directions be obeyed, and that his highnes servands, fiewars, and others foresaids, be no wayes frustrat in due payment of that quhilk, of his highnes good will and favor, his Majesty hes allowed and bestowed upon them, we request your Lordships, that ye wold give comand to us to pay and delyver to the foresaids persones, feawers, and others foresaids, their saids fies, monethly wages, and other sowmes direct to be payed to them be precept in manner foresaid, and that for our greater relief, that your Lordships would cause make ane act and ordinance insert and registrate in your Lordships books, that it shall be leisum to us to make payment of all and whatsumever fies, pensions, monethly wages, and sowmes direct be precepts and others whatsumever, gifted and disponed be his Majesty to any persone or persones in tymes bygone or to come, and that no arrestment made, or to be made, by any of their creditors in our hands therupon, shall import repetitione of the saids sowmes frae us; but that the payment therof to the saids pensioners, fiers, and others foresaids, and the report of their acquittances and discharges up-

“ on

## ACTS OF SEDERUNT

1627. " on the receipt thereof, shall be sufficient to liberat and freeth us  
 " frae all payment of the saids sowmes of money *de novo* again to the  
 " saids creditors, notwithstanding of the saids arrestments; quhere-  
 " upon your Lordships by the said act will dispense; and your Lord-  
 " ships answer wee beseech." Quhilk supplicatione abovewrittin being  
 at lenth read, heard, seen, and considered by the saids Lords in their  
 haill audience, and they therwith being ripely advyfed, the Lords of  
 Counsell commands and ordaines the saids complainers to pay and  
 delyver to the saids persones, feers and others foresaid, their saids fees,  
 monethly wages, and other sowmes direct to be payed to them be pre-  
 cept in maner foresaid; and declares that it shall be leisum to the  
 complainers to make payment of all and quhatsumever fies, pensions,  
 monethly wages, sowmes direct be precepts, and others whatsumever,  
 gifted and disponed be his Majesty to any persone or persones in tym  
 bygone or to come; and that no arrestment made or to be made by  
 any of their creditors in the saids complainers hands thereupon, shall  
 import repetitione of the saids sowmes frae them, but that the payment  
 thereof to the saids pensioners, feers, and others foresaid, and the re-  
 port of their acquittances and discharges upon the receipt therof, shall  
 be sufficient to liberat and freeth the saids complainers from all pay-  
 ment of the saids sowmes of money *de novo* again to the saids credi-  
 tors, notwithstanding of the saids arrestments, whereanent the saids  
 Lords be this present act dispenses, and ordaines letters of publica-  
 tion to be directe hereupon, in forme as effieres.

*Ul. Jan. 1627.*

Letter from  
the King,  
concerning  
his Majesty's  
revocation.  
Pitmeddan,  
MS.

THE quhilk day my Lord Durie, vice President, produced in pre-  
 sence of the Lords, his Majestys letter underwrittin, direct to the  
 Lords of Session, of the tenor and contents following:—" C. REX—  
 " Right trustie and well beloved counsellor, and trustie and well beloved,  
 " wee greit you well. Whereas we were pleased to wrytt unto you  
 " that our revocatione might be registrat in your books of Sederunt,  
 " and wee being now of late humbly petitioned by the Erles of  
 " Rothes, Linlithgow, and the Lord Lowdin, in name of diverse of  
 " the nobility and gentrie of that our kingdome, that we might  
 " be pleased to grant a commission of new for treating and agrieing  
 " with our said subjects concerning their interest, in diverse parti-  
 " culars contained in the said revocatione, as might best stand with  
 " their ease and our benefite; and seeing, from the beginning, our in-  
 " tention in this wes only for the generall good of that kingdome,  
 " and for the lawfull establishing at all tymes hereafter of a constant  
 " patrimonie and revenew to our crowne, we have been graciously  
 " pleased to give way to their demand in this; and therefore being  
 " willing that this course now intendit by this commission might  
 " take the happie and wished effect; our pleasure is, that ye delay  
 " the registratione of our said revocatione untill our furder pleasur  
 " herein be signified into you; haveing for that effect writtin to our  
 " advocats, that our summonds of reductione and improbatione may  
 " sleep

" sleep, and only be tabled and continuowd until the first of July, 1628.  
 " against all such persones as shall come in to the treatie, and agrie  
 " with our commissioners; and goe against all them who at such  
 " tyme as shall be appointed by the saids commissioners for this effect  
 " doe not conveen to treat and agrie in maner foreseid; and in the  
 " mean tym that all the said noblemen and others, have all lawful jus-  
 " tice in their purfuits by law of their vassals and tenants who doe  
 " unjustly detaine there rents or teythes from them, without prejudice  
 " alwayes of our titles and entres thereunto; so wee bid you farewell.  
 " From our court at Whitehall, the 17th January 1627." Quhilk  
 letter aforesaid being read and considered by the said Lords, they  
 thereafter ordained the same to be insert and registrat in their books  
 of Sederunt in maner foreseid.

18 Jun 1628.

THE whilk day the Lords haveing read and considered ane letter <sup>Change of</sup>  
 exhibited and shewen to them yesterday, direct to them by his <sup>extraordinary</sup>  
 sacred Majestie, quherof the tenor followes:—“ Right trustie and <sup>Lords.</sup> Record.  
 “ well beloved coosen and counsellier, and trustie and well beloved,  
 “ we greet you well: Haveing at the first beginning of our reigne,  
 “ in takeing order with our Colledge of Justice, appointed our right  
 “ trustie and well beloved coosen and counsellier, our reverend father  
 “ in God, and our trustie and well beloved counsellier, and our right  
 “ trustie and well beloved counselliers, the Earl of Lauderdale, the  
 “ Bishop of Ros, and the Lords Carnegie and Naper, to be extra-  
 “ ordinarie Lords of the said Colledge; being resolved, as we de-  
 “ clared at that tym, to change them efter some reasonable space,  
 “ though wee doe acknowledge that they have very faithfully behaved  
 “ themselves in that quhich did concerne their charge, for quhich we  
 “ give them very hearty thanks; yett to continow our first resolu-  
 “ tione and priviledge, and perfectly understanding the qualificationes  
 “ and sufficieny of our right trustie and well beloved coosen and  
 “ counsellier, of our right trustie and well beloved counsellier, and of  
 “ our right trustie and well beloved counselliers, the Earl of Mon-  
 “ teith, President of our Counsell, the Lord Erskin, Sir Andrew  
 “ Kerr, Master of Jedburgh, and Sir Archibald Achesone, our Se-  
 “ cretary, we have made choice of them to succeid to the persones  
 “ abovenamed; therefore we have thought good to nominat and  
 “ present them to the extraordinary places in Seffione; requiring you  
 “ effectually to receive and admitt them to the saids places, take  
 “ their ordinary oaths accustomed in the like caices, and lett them  
 “ have vote amongst you, as use is. Given at our court at White-  
 “ hall, the 14 day of May 1628.” As the said letter, signed and  
 subscribed by his Majestie's hand, and direct to “ My Lord Chancel-  
 “ lor, my Lord President, and remanent Senators of the Colledge of  
 “ Justice, or to such of them as are present for the tyme,” in itself  
 more fully propertes. Efter reading of the letter, and mature deli-

1628. beratione hade by the Lords therupon, the called in before them John Lord Erskin, and conform to the warrand and desire therof, they admitted, and admitt the said John Lord Erskin in and to one of the said extraordinary places of Sessione, giveing and granting to him all honours, dignities, privileges and immunitiess belonging and pertaining to the said place, to be bruicked and possest be him alse friely in all respects as any other extraordinar Lord have possest the same of before; Quherupon the said John Lord Erskin swear the oath of alleidgance, and gave his oath accustomed in the like caices, made faith *de fideli administratione*, and upon the baill premisses asked instruments.

15 Jul. 1628. *Licet hic scribatur.*

Letter from  
the King  
in favour of  
the College  
of Justice.  
Pitmeddan  
MS.

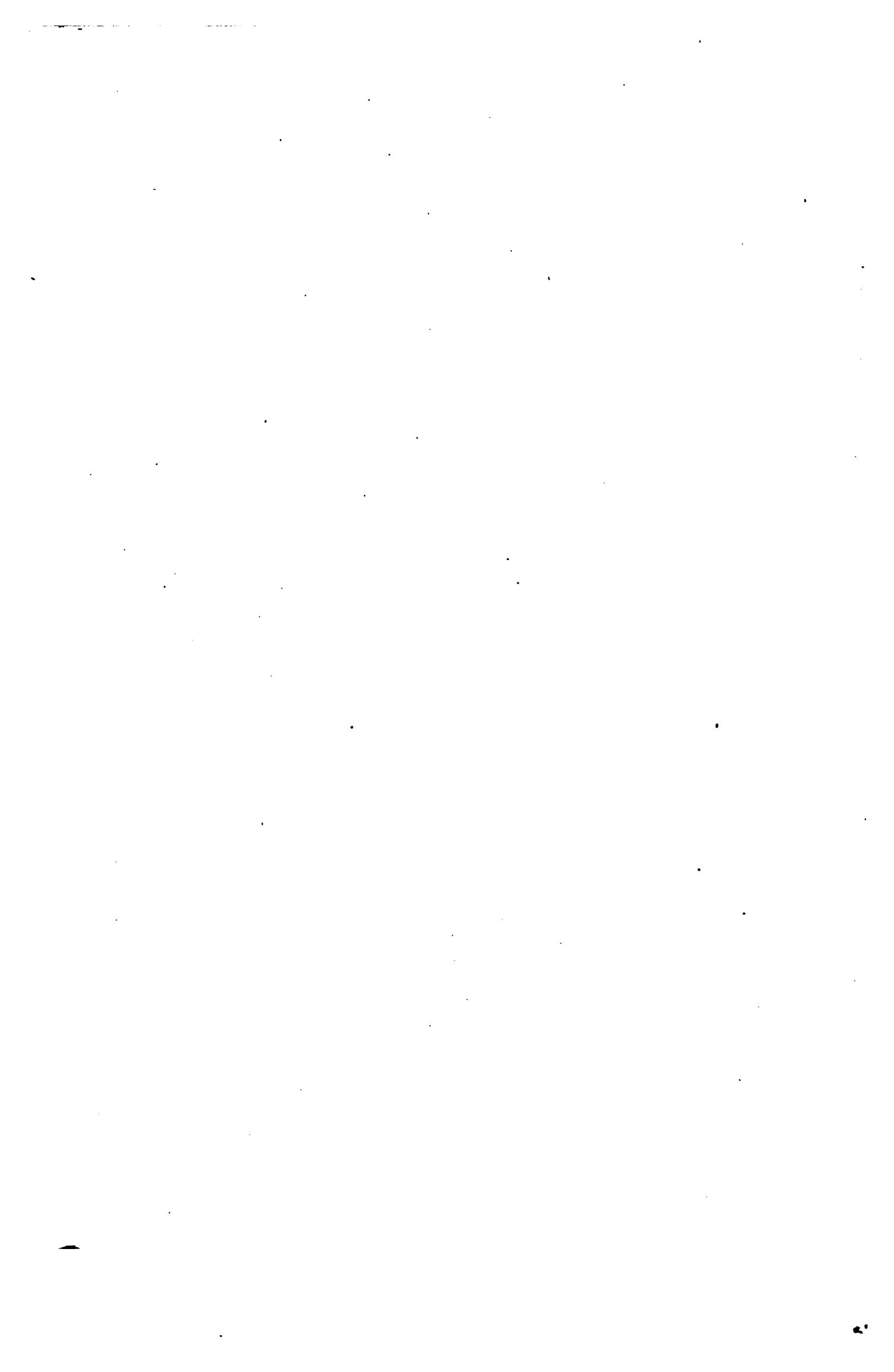
THE whilk day my Lord President exhibit and produced in presence of the Lords, ane letter direct unto them from his sacred Majesty, Quhereof the tenor followes:—" Right trustie and well-  
" beloved coosen and counsellor, and trustie and well beloved, we  
" greit you well. Wheras our royll progenitors have been alwayes  
" graciouſlie pleased to extend their princely favour towards that our  
" Colledge of Justice, and the judges and members thereof in their  
" persones, estates, and privileges; we are no les willing to express  
" our respect unto you in the like kinde, being very confident that ye  
" will behave yourselves in administrating justice according to the  
" trust we repose in you; and wheras we have heard of your com-  
" plaint in regard of letters written be us in favors of particular per-  
" sones, it wes only to urge a dispatch for such our servands that  
" have processes depending before you, in so farr as the course of  
" law would permitt, and we wish ye doe this of yourselves in tym  
" comeing, that they may have no occasion to importune us in this  
" kinde; and as we cannot but in justice hear all the complaints of  
" our subjects, be assured that whensoever any persone doe complain  
" unto us upon you, we will returne that which they alledge to be  
" truly tryed, that the complainer or partie complained upon may be  
" censured as the cause shall require; and to the effect wee may ex-  
" pres our princely power herein, we doe hereby will and require  
" you with all convenient diligence to meett and consult together, of  
" all such acts and priviledges as have been heretofore granted and  
" conceived in favours of the saids judges and members of that col-  
" ledge, and of all such acts of Sederunt as have been formerly made  
" be you and your predecessors, for the better regulating of the  
" course of justice, and maintenance of the ministers thereof, and  
" the same to certifie unto us under your hands, that upon view and  
" consideration thereof, we may give furder order for confirmatione  
" of such or all of them, as in our princely judgment shall seem fit-  
" ting for the dignity and preservatione of that judicatury, and the  
" good of every particular persone haveing relatione thereto. So we  
" bidd you heartily farewell. From our court at Whitehall, the 14  
" of

OF THE COURT OF SESSION.

83

" of June 1628 ;" as the same signed and superscryved by his Ma- 1630.  
jestys hand in itself beares : whilk being read and considered by the  
Lords, they ordained the same to be insert and recorded in their  
books of Sederunt, there to be extant as ane singular testimony of  
his Majestys gracious favour and respect borne to the honour and  
edite of this judicatorie.

**APPENDIX.**



# APPENDIX.

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## PAPAL BULLS,

### RELATIVE TO THE INSTITUTION OF THE COLLEGE OF JUSTICE.

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*I. Bullæ Clementis Papæ VII. super summa decem millium ducatorum auri de Camera, ad Collegii Justitiæ in regno Scotiæ suppotationem, ex beneficiorum ecclesiasticorum redditibus levanda.—Idib. Sept. 1531.*

CLEMENS EPISCOPUS, servus servorum Dei, ad perpetuam rei memoriam. Preclara merita, quibus charissimus in Christo filius noster Jacobus Scotorum Rex illustris, in nostro et apostolice sedis conspectu, fide constans continuo resplendet, nos excitant, et quodammodo ejus de sede predicta meritis id exigentibus, nos impellunt, ut illa sibi ejusque posteris regalis fastigij celsitudine fulgentibus favorabiliter concedamus, per que justitia in eo, equa lance omnibus mature ministrata, regnum ipsum in quietis et tranquilitatis amenitate permaneat. Sane cum, sicut dilectus filius nobilis vir Johannes Albanie Dux, noster secundum carnem affinis, dicti Jacobi Regis nomine nobis exposuit; prefatus Jacobus Rex, benigno subditorum suorum regimine, et ut in regno suo justitia maturius et securius ministretur, cupiat in ipso regno unum Collegium proborum et literatorum virorum, per ipsum Jacobum Regem et successores suos prefatos eligendorum, quorum media pars in dignitate ecclesiastica constituta existat, qui de causis suorum regnicolarum cognoscant, institui: quia tamen id sine magnis expensis fieri non potest, et ad hujusmodi sustinen-

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\* Taken from an official Transumpt, in the General Register-House.

das expensas facultates ipsius Regis, qui quamplurima alia onera pro dicti regni regimine subire cogitur, non parum extenuate, minus suppetant; dictus Johannes Dux, dicti Jacobi nomine, nobis humiliter supplicavit, ut a prelatis regni sui, quorum non minus quam aliorum regnicolarum interest, ut ipsum regnum in quiete tranquillitate et amenitate permaneat, justitiaque ibi vigeat, et mature ministretur; aliquod eidem regno subsidium ministrari, et procurari de benignitate apostolica dignaremur. Nos igitur regnum predictum in tranquillitate amenitate et justitia permanere, ac perpetua quiete frui exoptantes, ac equum reputantes, ut prelati ejusdem regni, ad expensarum hujusmodi suppertationem, sua suffragia et subsidia impertiantur; hujusmodi supplicationibus inclinati, auctoritate apostolica, tenore presentium, perpetuo statuimus et ordinamus, quod de cetero, quamdiu tamen dictus Jacobus Rex et ejus successores, in nostra et fedis apostolice fide obedientia et devotione permanferint, universi quarumvis metropolitanarum dicti regni et aliarum cathedralium ecclesiarum, secularium, et regularium, Archiepiscopi, etiam Primate et Legati nati, ac Episcopi, necnon quorumvis ordinum monasteriorum abbates, et prioratum conventionalium ejusdem regni priores, seu ecclesiarum, monasteriorum et prioratum eorundem perpetui vel temporales administratores et commendatarij pro tempore existentes, et alij ipsius regni prelati etiam exempti, ex fructibus, redditibus, et proventibus ecclesiarum, monasteriorum, et prioratum hujusmodi, eidem Jacobo Regi et successoribus suis, Scotorum Regibus pro tempore existentibus pro institutione et manutentione unius Collegij proborum et literatorum virorum, quorum media pars in dignitate ecclesiastica constituta omnino esse debeat, per Jacobum Regem et successores prefatos alias rite pro tempore eligendorum, qui de causis regnicolarum predictorum cognoscant, illasque audiant, decident, et fine debito terminent, ac eis justitiam ministrent, per eundem Jacobum Regem de novo in dicto regno perpetuo instituendi annis singulis, realiter et cum effectu, usque ad summam decem millium ducatorum auri de camera, juxta quantitatem fructuum, reddituum, et proventuum ecclesiarum, monasteriorum, et prioratum eorundem, per eos distribuendam et colligendam solvere debeant et teneantur. Quocirca venerabilibus fratribus nostris Archiepiscopo Glasguensi, et Moraviensi ac Candide Episcopis, per apostolica scripta mandamus, quatinus ipsi, vel duo aut unus eorum, per se aut alium, seu alios, Jacobo Regi et successoribus prefatis, in premissis efficacis defensionis presidio assistentes, faciente auctoritate nostra, per prelatos predictos, usque ad dictam summam decem millium ducatorum hujusmodi, Jacobo Regi et successoribus prefatis, annis singulis, juxta presentium tenorem, integre persolvi; contradictores quoilibet et rebelles, per penas et censuras ecclesiasticas, et alia juris remedia, appellatione postposita, compescendo, non obstantibus constitutionibus et ordinationibus apostolicis, ac ecclesiarum, monasteriorum, et prioratum predictorum etiam juramento, confirmatione apostolica, vel quavis firmitate alia roboratis, statutis, et consuetudinibus, necnon quibusvis exemptionibus, immunitatibus, privilegiis, indultis, et literis apostolicis, archiepiscopis etiam primatibus et legatis natis, episcopis, abbatibus, prioribus, administratoribus, commendatarijs et alijs prelatis prefatis, sub quibusunque tenoribus et formis, ac cum quibusvis

quibusvis clausulis et decretis, etiam motu et scientia similibus concessis et approbatis. Quibus omnibus tenores illorum, ac si de verbo ad verbum infererentur presentibus, pro sufficienter expressis habentes, illis alias in suo robore permansuris, hac vice duntaxat specialiter et expresse derogamus, et eis adversus premissa nullatenus suffragari posse volumus, ceterisque contrarijs quibuscumque: Aut si Archiepiscopis, etiam primatibus et legatis natis, episcopis, abbatibus, prioribus, administratoribus, commendatarijs, et alijs prelatis prefatis, vel quibusvis alijs, communiter vel divisim, ab eadem sit sedē indulatum, quod interdici, suspendi, vel excommunicari non possint, per literas apostolicas, non facientes plenam et expressam ac de verbo ad verbum de indulto hujusmodi mentionem.

Nulli ergo omnino hominum liceat hanc paginam nostrorum statuti, ordinationis, mandati, et derogationis infringere, vel ei aus temerario contraire. Si quis autem hoc attemptare presumperit, indignationem omnipotentis Dei, ac beatorum Petri et Pauli apostolorum ejus, se noverit incursum. Datum Rome apud Sanctum Petrum, anno incarnationis Dominice millesimo quingentesimo trigesimo primo; Idibus Septembris; Pontificatus nostri anno octavo.

*II. Bulla perpetue conseruatorie in forma militantis ecclesie pro Collegio Justicie serenissimj dominij Scotorum Regis illustrissimj.—Quart. Id. Martii, 1534.\**

**P**AULUS EPISCOPUS servus seruorum dej, venerabilj fratrj Episcopo Candideca et Capelle Regie Struilingensis, et dilectis filiis abbati monasterij Beate Marie de Newbottle, Sanctiandree diocesis, ac preposito ecclesie Capelle Regie nuncupate eiusdem Beate Marie de Rupe, infra seu prope civitatem Sanctiandree, salutem et apostolicam benedictionem, militantj ecclesie, licet immeritj, disponente domino, presidentes circa curam ecclesiarum et ecclesiasticarum personarum, omni solertia reddimus indefessa sollicitij, ut iuxta debitum pastoris officium, earum necnon aliorum Christifidelium, ne indebito pergrauentur, occurramus dispendiis et profectibus; diuina cooperante clementia, salubriter intendamus sane, pro parte dilectorum filiorum Presidentis, et quatuordecem Consiliariorum Collegii Justitie, quod nuper charissimus in Christo filius noster Jacobus Scotorum Rex illustrissimus, in regno Scotie et supremo eius Parliamento, de trium statuum ipsius regni consilio et assensu, pro vno Presidente semper prelato ecclesiastico, ac quatuordecem consiliariis, quorum media dignitate ecclesiastica omnino constituta, reliqua vero partes seculares persone probe et litterate existerent, ab eodem Jacobo et pro tempore existente Scotorum rege, et pro tempore eligendis, qui de causis civili-

\* From MS. Adv. Lib. A. 3, 22, fo. 305. It is corrupted by various errors of transcription, some of which have been here corrected.

bus regnicolarum eiusdem regni cognoscant, illasque audiant, decident, et fine debito terminent, et cuius institutio hujusmodi, per nos post modum apostolicum autoritate approbata et confirmata existit, conquestione precipimus, quod ipsi dubitent ne aliqui Archiepiscopi, etiam Primate, et apostolice sedis legati nati, et ipsi aliique ecclesiarum prelati et clerici, ac ecclesiastice persone, tam religiose quam seculares, necnon Duces, Marchiones, Comites, Barones, Milites, Nobiles et Laici, Communia ciuitatum, Universitates oppidorum, castrorum, villarum, et aliorum locorum, ac alie singulares persone ciuitatum et doceſium, aliarum partium diuersarum occupent, et occupari faciant castra, villas, et alia loca, terras, domos, possessiones, jura et jurisdictiones, necnon fructus, redditus, census, et prouentus prelaturarum et beneficiorum ecclesiasticorum, cum cura, et sine cura, per ipsos presidentem et consiliarios ecclesiasticos nunc et pro tempore obtentorum; et alia bona, mobilia et immobilia, spiritualia et temporalia, ad prelaturas et beneficia, necnon Presidentem et Consiliarios predictos, ac eorum curie advocationes, scribas, notarios, et officiales, per eosdem Presidentem et Consiliarios in ipsa curia pro tempore admissos, communiter vel diuīsim pertinentia, et ea detineant indebitē occupata; seu ea detinentibus prestant auxilium, consilium, vel fauorem; ac etiam nonnulli ciuitatum et dioceſium, ac partium predictarum, qui nomen domini in vanum recipere non formadibunt, eisdem presidenti, consiliariis, aduocatis, scribis, notariis, ac officialibus, nunc et pro tempore existentibus, super predictis castris, villis, et bonis aliis, terris, domibus, possessionibus, juribus, et jurisdictionibus, priuilegiis, indultis, exemptionibus, immunitatibus, ac fructibus, censibus, redditibus, et prouentibus earundem, et aliis bonis mobilibus et immobilibus, spiritualibus et temporalibus aliis rebus, ad prelaturas, beneficia, presidentem, consiliarios, aduocatos, scribas, notarios, et officiales, huiusmodi, communiter vel diuīsim, nunc et pro tempore spectantibus, multiplices molestias et iniurias inferant, et jacturas: Quare dicti Presidens et Consiliarii nobis humiliter suppli- carunt ut cum eis, ac aduocatis, scribis, notariis, et officialibus prefatis, nunc et pro tempore existentibus, valde redderetur difficile pro singulis querelis ad apostolicam sedem habere recursum, prouidere ipsis super hac paterna diligentia curaremus; NOS IGITUR, aduersus occupatores, detentores, presumptores, molestatores, et iniuriatores huiusmodi, volentes eisdem presidenti, consiliariis, aduocatis, scribis, notariis, et officialibus, remedio subuenire per quod temporum compescatur temeritas, et aliis aditus committendi similia precludatur; discre- tioni vestre per apostolica scripta mandamus, vos quatenus, vel duo ac unus vestrum, per vos vel alium, seu alios (etiam si sint extra loca in quibus deputati estis conseruatores et judices), presidenti, et consiliariis Collegii, et aduocatis, scribis, notariis, et officialibus illius curie huiusmodi, nunc et pro tempore existentibus, super predictis castris, villis, et bonis aliis, terris, domibus, possessionibus, juribus, et jurisdictionibus, priuilegiis, indultis, exemptionibus, immunitatibus, ac fructibus, censibus, redditibus, et prouentibus earundem, et aliis bonis mobilibus et immobilibus, spiritualibus et temporalibus, ac aliis rebus

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ad prelaturas, beneficia, presidentem, consiliarios, aduocatos, scribas, notarios, officialis defensionis presidio assistentes, non permittatis eodem super hiis et quibuslibet aliis bonis et juribus ad presidentem, consiliarios, aducatos, scribas, notarios, et officiales, ac per ipsos presidentem, et consiliarios ecclesiasticos, nunc et pro tempore, etiam ex quibusuis dispensationibus et concessionibus apostolicis, in titulum et commendam, ac alias obtenta beneficia ecclesiastica, cum cura et sine cura, secularia, et quorumuis ordinum regularia, cuiuscunque qualitatis existentia, communiter vel diuisim, nunc et pro tempore spectantibus, ac super priuilegiis, indultis, exemptionibus, et immunitatibus eis pro tempore concessis, ab eisdem, vel quibusuis aliis, indebite molestari, vel eis grauamina vel dampna siue iniurias irrogari, facturi dictis presidenti, consiliariis, aduocatis, scribis, notariis, et officialibus, cum ab eis vel procuratoribus suis, aut eorum aliquo, fueritis requisiti de predictis, et aliis personis quibuscunque, super restitutione dictorum castrorum, villarum, terrarum, et aliorum locorum quorumcunque, jurisdictionum, jurium, et bonorum, mobilium et immobilium, reddituum quoque et prouentuum, et aliorum quorumcunque bonorum, necnon de quibuslibet molestiis, juribus, atque dampnis, presentibus et futuris, et illis videlicit que judiciale requirunt indaginem, summarie et de plano, sine spiritu et figura judicij, in aliis vero prout qualitas eorum exigerit, justicie complementum occupatores, seu detentores, presumptores, molestatores, et iniuriatores huiusmodi, necnon contradictores quoslibet et rebelles etiam qualitetcunque, exemptos etiam ordinum quorumcunque, etiam quascunque vel dissimiles conseruatorias habentes, et quibuscunque priuilegiis et immunitatibus suffultos, cuiuscunque dignitatis, status, gradus, ordinis vel condicionis, extiterunt, quandocunque et quotiescunque expedierit, auctoritate nostra per censuram ecclesiasticam, appellatione postposita, compescendo, inuocato etiam ad hoc, si opus fuerit, auxilio brachii secularis. ITAQUE prefidens, consiliarii, aduocati, scribe, notarii, et officiales Collegii huiusmodi, nunc et pro tempore existentes, extra locum in quo Collegium huiusmodi residere contigerit, etiam pretextu quarumcunque aliarum conseruatoriarum, ad judicium non possint, sed teneantur duntaxat coram vobis, aut aliquo vestrum, seu deputatis a vobis, de justitia respondere. Ceterum si per summariam informationem per vos habendam vobis constiterit, quod ad loca in quibus occupatores, detentores, presumptores, molestatores, et iniuriatores huiusmodi, ac alios quos presentes litere concernunt, pro tempore morari contigerit, pro monitionibus ipsis et citationibus de eis faciendis, tutus non pateat accessus, seu eorum copia commode haberri non possit; nos vero citationes et monitiones qualibet, per edicta publica, locis affigenda publicis, et partibus illis vicinis quibus sit verisimilis connectura, quod ad noticiam citatorum et monitorum huiusmodi peruenire valeant, faciendi, ac quibuscunque aliis conseruatoribus, quibusuis aliis personis, ecclesiis, monasteriis, locis et ordinibus, etiam per literas apostolicas sub quibuscunque tenoribus deputatis et deputandis, etiam sub censuris ecclesiasticis inhibendi, plenam et liberam concedimus, tenore presentium, facultatem, ac volumus, et predicta auctoritate decernimus, quod monitiones ac citationes huiusmodi, sic facte, perinde citatos ac monitos arcent,

## APPENDIX.

ac si aliis personaliter infinuate et intimate extitissent, non obstantibus tam felicis recordationis Bonifacii pape octavi predecessoris nostri, in quibus cauetur, ne quis extra suam ciuitatem vel dioecesim in certis expressis casibus, et in illis ultra vnam dietam, a fine sue dioecesis, ad judicium euocetur; seu ne judices et conseruatores prefati, a sede deputati predicta, extra ciuitatem vel dioecesim, in quibus deputati fuerunt, contra quoscunque procedere, aut alii, vel aliis, vices suas committere, seu aliquos ultra vnam dietam a fine dioecesis eorum trahere presumant, et de duabus dietis in consilio generali edita dummodo ultra quatuor dietas aliquis auctoritate presentium non trahatur, seu de aliis quam manifestis iniuriis ac violentiis, ac aliis, que judicialem inquirunt indaginem, penis in eis si secus egerint, et id procurantes adiectis, conseruatores se nullatenus intromittant, quam aliis quibuscunque constitutionibus a predecessoribus nostris Romani Pontificatus, tam de judicibus delegatis, et conseruatoribus, quam personis ultra certum numerum ad judicium non vocandis, et aliis editis, que vestre possunt in hac parte jurisdictioni aut potestati, eiusque libero exercitio quomodolibet obuiare; necnon quibusuis priuilegiis, et indul-tis quibuscunque, ecclesiis, monasteriis, et locis, ac illorum personis et ordinibus quibuscunque; etiam Cluniacensibus, Premonstraten-sibus, vel Cisterciensibus, sub quibuscunque tenoribus concessis; etiam si in illis caueatur expresse, quod pretextu quarumcunque aliarum, conseruatoriarum et literarum apostolicarum, extra loca eorum coram quibusuis judicibus et conseruatoribus apostolicis, ad judicium evocari non possunt, sed teneantur coram eorundem conseruatoribus et delegatis ab eis duntaxat respondere; et quamvis citationes et inhibitiones inde pro tempore secure nullius sint roboris vel momenti quibus illis alias in suo labore permansuris, quoad premissa hac vice duntaxat, harum serie specialiter et expresse derogamus, contrariis quibuscunque; seu si aliquibus, communiter vel diuisi, a predicta si deinde indultum quoddam interdici, suspendi, vel excommunicari, seu extra vel ultra certa loca ad judicium euocari non possint; per literas apostolicas non facientes plenam et expressam, ac de verbo ad verbum, de indulto huiusmodi, et eorum personis, locis, ordinibus, et nominibus propriis, mentionem, et qualibet alia dicta sedis indulgentia, generali vel speciali, cuiuscunque tenoris existat, per quam presentibus non expressam, vel totaliter insertam, vestre jurisdictionis explicatio in hac parte valeat quomodolibet impediri, et de qua cuiuscunque toto tenore habenda sit, de verbo ad verbum, in vestris literis mentione specialis; et insuper volumus, et apostolica auctoritate decernimus, quod quilibet vestrum prosequi valeat articulum, etiam per alium inchoatum, quamvis idem inchoans nullo fuerit impedimento canonico prepeditus; quodque a data presentium sit vobis et unicuique vestrum in premissis, ac eorum singulis, ceptis et non ceptis, presentibus et futuris, ac pro predictis procedere, ac si predicta omnia et singula coram vobis cepta fuissent, et jurisdictione vestra ac cuiuslibet vestrum in predictis omnibus et singulis per citationem vel modum alium perpetuata legitime extirisset, constitutione predicta super conseruatoribus, et alia qualibet in contrarium edita, non obstantibus presentibus, perpetuis futuris temporibus valituris.

Datum:

Datum Rome, apud Sanctum Petrum; anno Incarnationis Domini millefimo, quingentesimo, trigesimo quarto; quarto Idus Martij; Pontificatus nostri anno primo.

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*III. Processus super Bulla Confirmationis Collegij Justitiae Serenissimi Domini Scotorum Regis semper illustrissimi. — Ult. Mart. 1535.\**

**U**NIVERSIS et singulis Reverendissimis ac Reverendis in Christo Patribus et Dominis, Dominis Dei et Apostolice sedis gratia quarumvis metropolitanarum et aliarum cathedralium ecclesiarum, secularium et regularium, Regni Scotie Archiepiscopis, etiam primatibus et legatis natis, ac episcopis, eorumque et cuiuslibet eorum vicarijs et officialibus, generalibus ac subdelegatis, et commissarijs, nunc et pro tempore existentibus; necnon quorumvis ordinum monasteriorum abbatibus ac prioratum conventionalium prioribus, seu ecclesiarum, monasteriorum, et prioratum eorumdem, perpetuis vel temporalibus administratoribus et commendatarijs, nunc et pro tempore existentibus, et alijs quibuscunque dicti Regni Scotie prelatis, etiam exemptis, omnibusque alijs et singulis quorum interest, intererit aut interesse [poterit,] quosque infrascriptum tangit negotium, seu tangere poterit, quomodolibet in futurum, communiter vel divisim, quibuscunque nominibus censeantur, aut quacunque perfulgeant dignitate, Hieronimus de Ghimitijs, eadem gratia Episcopus Wigorniensis, curie causarum camere apostolice generalis auditor judex et executor ad infrascripta, una cum quibusdam alijs nostris in hac parte collegis; cum illa clausula quatinus ipsi, vel tres, aut duo, seu unus eorum, per se, vel alium, seu alios, &c. a sede apostolica specialiter deputatus, salutem in domino; et nostris hujusmodi ymmo verius apostolicis firmiter obedire mandatis, literas sanctissimi in Christo Patris et domini nostri, domini Pauli, divina providentia Pape tertij, ejus vera bulla plumbea, cum filis sericis rubei croceique coloris, more Romane curie impendentes, bullatas, fanas siquidem et integras, non vitiatas, non cancellatas, neque in aliqua sui parte suspectas, sed omni prorsus vitio et suspicione carentes, ut in eis prima facie apparebat; nobis pro parte serenissimi ac illustrissimi principis et domini, Domini Jacobi, Scotorum Regis illustris principalis, in eisdem literis apostolicis principaliter nominati, coram notario publico Archivij Romane curie scriptore, et testibus infrascriptis, presentatas, nos, cum ea qua decuit reverentia, noveritis recepisse, hujusmodi sub tenore: Paulus Episcopus, servus servorum Dei, ad perpetuam rei memoriam. Preclara carissimi in Christo filij nostri Jacobi Scotorum Regis illustris merita, quibus ipse, more clarissimorum Regum Scotorum progenitorum suorum, in nostro et apostolice sedis conspectu clarere dinoſcitur, non indigne merentur, ut petitionibus suis presertim justicie cultum, ac subditorum suorum benignam gubernationem, ac tranquillum statum concernentibus, quantum cum Deo possumus, favorabiliter annuamus; ac ea

\* From the original in the General Register-house.

que per eum propterea provide gesta sunt, ut illibata perfistant apostolici muniminis soliditate, prompta benevolentia roboremus. Dudum cum prefatus Jacobus Rex felicis recordationis, Clementi Pape Septimo, predecessori nostro, exponi fecisset, se summopere cupere, regnum suum Scotie in quietis et tranquilitatis amenitatem perpetuo permanere, ac omnibus illius regnicolis justitiam equa lance liberius ministrari: Prefatus Clemens predecessor, eodem Jacobo Rege, id ab ipso predecessor instanter petente, ac desuper humiliter supplicante, quod ex tunc de cetero perpetuis futuris temporibus, universi et singuli quarumvis Metropolitanarum et aliarum cathedralium, ecclesiarum, secularium et regularium, dicti regni Archiepiscopi, etiam primates et legati nati, ac episcopi, necnon quorumvis ordinum monasteriorum abbates, ac prioratum conventionalium priores, seu ecclesiarum, monasteriorum, et prioratum eorundem perpetui vel temporales administratores et commendatarij pro tempore existentes, et alij ipsius regni prelati, etiam exempti, ex fructibus, redditibus, et proventibus, ecclesiarum, monasteriorum, et prioratum hujusmodi, pro institutione et manutentione unius Collegij proborum et literatorum virorum, quorum media pars in dignitate ecclesiastica constituta omnino esse deberet, per Jacobum Regem et successores suos prefatos, alias rite pro tempore eligendorum, qui de causis civilibus et prophanis regnicolarum predictorum cognoscerent, illasque audirent, deciderent, et fine debito terminarent, ac eis justitiam ministrarent, per eundem Jacobum Regem de novo in dicto regno perpetuo instituendi, annis singulis, realiter et cum effectu, usque ad summam decem millium ducatorum auri de camera, juxta quantitatem fructuum, reddituum, et proventuum ecclesiarum, monasteriorum et prioratum eorundem, distribuendorum et colligendorum, solvere deberent et tenerentur, per suas sub plumbo confessas literas statuit et ordinavit, prout in eisdem literis plenius continetur. Cum autem sicut prefatus Jacobus Rex nobis, qui dicto predecessore, sicut Domino placuit, sublato de medio divina favente clementia, ad summum apostolatus apicem assumpti fuimus, nuper exponi fecit ipse hujusmodi Collegium Justicie proborum et literatorum virorum, unius presidentis, prelati semper ecclesiastici, ac quattuordecem aliarum personarum, quarum media pars in dignitate ecclesiastica constituta semper existat, per eundem Jacobum et pro tempore existentem Scotorum Regem, electorum et eligendorum, qui de dictis causis regnicolarum predictorum, ut prefertur, cognoscant, illasque audiant, decidant, et fine debito terminent, in ejus supremo Parliamento, de concilio et assensu trium statuum dicti regni, sua regia auctoritate instituerit; et erga archiepiscopos, episcopos, abbates, priores, administratores, commendatarios, et alios prelatos predictos, prout ejus predecessors facere consueverunt, se liberalem et munificum reddere volens, summa decem millium ducatorum predicta ad mille et quadringentas libras usualis monete regni predicti, trecentas quinquaginta libras sterlingorum, vel circa, constituentes, reducta, cum eisdem archiepiscopis, episcopis, abbatibus, prioribus, administratoribus, commendatarijs, et alijs prelatis, etiam exemptis, predictis convenerit, quod pro hujusmodi Collegij Justicie per eundem Jacobum Regem de novo institute, annua

et perpetua sustentatione et manutentione, per archiepiscopos, episcopos, abbates, priores, administratores, commendatarios, et alios prelatos predictos, solum summa predicta mille quadringentarum librarum usualis monete dicti regni solvi debeat; ipsaque summa mille quadringentarum librarum, sic reducta, ex fructibus, redditibus, et preventibus beneficiorum ecclesiasticorum, secularium ac etiam regularium, ad eorum collationem, provisionem, presentationem, et quamvis alias dispositionem, communiter vel divisim, spectantium; aut alias, per eos et eorum singulos, capitulo rum, ecclesiarum, et conventuum, monasteriorum et prioratum suorum, ad id respectiue, expresso accidente consensu, nominandorum; per dictum Collegium, ac collectorem ab eisdem pro tempore deputatum, annis singulis perpetuis futuris temporibus, leuetur et exigatur; ac per immediatos in nominandis beneficijs hujusmodi futuros successores et possessores, in perpetuum cedentibus, etiam ex causa permutationis, vel decedentibus modernis eorumdem nominandorum beneficiorum possessoribus, seu illa alias quomodolibet dimittentibus vel amittentibus, et illis quibusvis modis etiam per privationem simul vel successive vacantibus, etiam apud sedem apostolicam, seu provisionibus de illis eisdem apostolica et alia quavis auctoritate quibusunque personis faciendis, ex quibuscunque causis nullis et invalidis forsan existentibus, et effectum sortiri nequeuntibus, singulis annis perpetuis futuris temporibus, in locis et terminis, in mandatis archiepiscoporum, episcoporum, abbatum, priorum, administratorum, commendatariorum et prelatorum predictorum desuper confectis, expressis, et conficiendis, exprimendis, ac sub censuris et penis ecclesiasticis, etiam privationis beneficiorum predictorum per nos et sedem apostolicam apponendis, in eventum non solutionis ipsius summe seu rate, sive partis illius eos contingentis, eo ipso incurrendis, plenarie et integre persolvatur; seu Collegium prefati, aut collector ab eis pro tempore deputatus, eandem summam mille quadringentarum librarum, ut prefertur, reductam ad eorum manus proprias, per se vel alium, seu alios eorum nomine, propria auctoritate exigant, levent, et percipient; ac in dicti presidentis et aliarum quattuordecim personarum Collegij Justicie hujusmodi pro tempore existentium usus et utilitatem, per modum distributionum quotidianarum, ad ratam residentie per eos et eorum quemlibet pro tempore faciende, loco annuarum pensionum, que ab omni jurisdictione ordinaria, ac ob omni decima contributione collecta, exactione, ac subfido etiam caritativo, oneribusque ordinarijs et extraordinarijs, quavis etiam apostolica auctoritate, etiam regia instacia, et ex quibusvis causis, etiam expeditionis contra Turchas et Infideles, seu alias quomodolibet pro tempore impositis et imponendis, libere, immunes et exempte sint, convertant; prout in literis patentibus ipsius regis, et instrumentis publicis desuper confectis, quorum tenores presentibus pro sufficienter expressis habentur, plenius dicitur contineri: Et propterea pro parte Jacobi Regis, ac archiepiscoporum, primatum, legatorum natorum, episcoporum, abbatum, priorum, administratorum, commendatariorum, et aliorum prelatorum predictorum, nobis humiliter supplicatum fuerit, ut institutioni, concessioni, et conventioni

## APPENDIX.

tioni hujusmodi, pro illarum subsistentia firmiori, robur apostolice firmitatis adjicere, et alias in premissis opportune providere de benignitate apostolica dignaremur. Nos dicti regni prosperum et tranquillum statum paterno zelantes affectu, ac sperantes ex premissis in illo tranquilitatis et pacis dulcedinem successuram; hujusmodi supplicationibus inclinati, institutionem, concessionem, et conventionem predictas, ac illas prout concernunt, omnia et singula in literis et instrumentis predictis contenta, licita et honesta, ac sacris canonibus non contraria, rata et grata habentes, illa, auctoritate apostolica tenore presentium approbamus et confirmamus, ac plenum effectum fortiri, et inviolabiliter perpetuo observari debere decernimus; supplentes omnes et singulos juris et facti defectus si qui forsan intervenerint, in eisdem. Et nichilominus eidem Collegio pro illius manutentione ultra dictam summam mille et quadringentarum librarum dicte monete, ut prefertur, reductam, ac inter archiepiscopos, episcopos, abbates, priores, administratores, commendatarios, et alios prelatos predictos distributam, et alios redditus, proventus, et emolumenta quecunque, per dictum Jacobum et successores suos, Scotorum Reges pro tempore existentes, ac alios quoscunque, ipsi Collegio, pro uberiori illius manutentione legitime donata et concessa, ac donanda et concedenda, pro tempore, cum assignata fuerint. Necnon dicto Rege in hoc consentiente, tot beneficia ecclesiastica, cum cura, vel sine cura, de jure patronatus, ex dotatione vel fundatione ipsius Regis vel predecessorum suorum existentia; quorum insimul fructus, redditus, et proventus ducentarum librarum sterlingorum similium, secundum communem extimationem, valorem annum non excedant, de cetero per obitum cujuscunque seu quorumcunque illa obtinentis seu obtainientium vacatura, cum vacaverint, cum omnibus juribus et pertinentijs suis, ita quod liceat Presidenti et Senatoribus pro tempore existentibus Collegij hujusmodi, per se vel ab eis deputatos collectores unum vel plures, seu alios eorum nomine, summam ipsam, a dictorum nominandorum beneficiorum immediatis successoribus, et suorum successorum, successoribus prefatis, in perpetuum, exigere et levare, seu propria auctoritate percipere, ac in dicti Collegij usus conuertere; necnon decedentibus simul vel successive beneficia hujusmodi obtainientibus, corporalem possessionem beneficiorum juri umque et pertinentiarum predictorum propria auctoritate libere apprehendere et perpetuo retinere, ac illorum fructus, redditus, et proventus similiter in dictos usus et utilitatem convertere, ordinariorum locorum et collatorum ac possessorum nominandorum beneficiorum hujusmodi, ac quorumvis aliorum, licentia super hoc minime requisita; sic tamen quod beneficia hujusmodi debit is propterea non fraudentur obsequijs, et animarum cura in eis, si qua illis immineat, nullatenus negligatur, sed per presbyteros ydoneos animarum cura exercetur, et eorum congrue supportentur onera consueta, ex nunc, prout ex tunc, et e contra, auctoritate et tenore predictis perpetuo applicamus et appropriamus, ac unimus, anneximus et incorporamus. Et insuper, cum juxta institutionem Collegij et conventionem hujusmodi presidens dicti Collegij semper prelatus ecclesiasticus, et quattuordecim persone predice Collegium ipsum justicie constituentes, simul et continuo

tinuo residere, ac indies justitiam regni regnicolis predictis ministrare  
 fint astrici, ne eos a civitate, oppido, aut alio loco, in qua, seu quo, eos  
 collegialiter pro tempore residere contigerit, ad alia loca quovismodo  
 in judicium a quibuscumque trahantur, Presidentem et quattuordecim  
 Senatores Collegij hujusmodi pro tempore existentes, quamdiu actu  
 Senatores extiterint, ac eorum clericos, sribas, notarios et advocatos  
 pro tempore descriptos, et ad actuale exercitium admissos, necnon rel-  
 liquos dicti senatus officiales necessarios, similiter pro tempore existen-  
 tes, dum in exercitio hujusmodi officij versabuntur, ab omni jurisdictione,  
 superioritate, dominio, imperio, potestate, preeminentia, visita-  
 tione et correctione quorumcunque archiepiscoporum, etiam primatum  
 et legatorum natorum, ac episcoporum et aliorum ordinariorum  
 dicti regni, nunc et pro tempore existentium, et suorum officialium  
 et commissariorum pro tempore quomodolibet deputatorum, auctorita-  
 te et tenore supradictis penitus et omnino in perpetuum eximus  
 et totaliter liberamus, ac sub beati Petri et sedis apostolice ac nostra  
 protectione suscipimus; ita quod archiepiscopi, primates, legati nati,  
 episcopi, ordinarij, officiales et commissarij prefati, nullam in eos etiam  
 ratione delicti, contractus, domicilij, et rei de qua ageretur, ubicun-  
 que committatur delictum, ineatur contractus, aut res seu domicilium  
 hujusmodi consistant, jurisdictionem, dominium vel potestatem possint  
 quomodolibet exercere. Sed teneantur presidens et quattuordecim se-  
 natores pro tempore existentes, et justitiam ut premittitur ministran-  
 tes, eorumque clerici, scribe, notarii et advocati ac officiales senatus  
 predicti, coram venerabili fratre Candidecase, et Capelle Regie Strive-  
 lingesis episcopo, ac dilectis filijs abbate monasterij Beate Marie de  
 Newbottell Sancti Andree dioecesis, necnon preposito Capelle Regie  
 Beate Marie de Rupe, infra seu prope civitatem Sancti Andree, de se  
 querelantibus, de justicia in illis que ad forum ecclesiasticum spectant  
 respondere; districtius inhibentes eisdem archiepiscopis, etiam pri-  
 matibus et legatis natis, episcopis, ordinarijs, officialibus et commis-  
 sarijs, ne presidentem, senatores, clericos, sribas, notarios, advocates  
 et reliquos officiales Collegij hujusmodi pro tempore existentes, contra  
 exemptionem, liberationem, et susceptionem nostras predictas, per se  
 vel alias, directe vel indirecte, quovis quesito colore molestare, inquiet-  
 tare, seu perturbare quoquomodo presumant; ac decernentes irritum  
 et inane quicquid secus scienter vel ignoranter contigerit attemptari.  
 Quocirca, venerabili fratri Wigorniensi, curie causarum camere apostolice generali auditori, et prefatis Candidecase, et Capelle Regie episcopis, necnon abbati et preposito, per easdem presentes committimus  
 et mandamus, quatinus ipsi vel tres aut duo vel unus eorum, per se  
 vel alium seu alias, presentes literas, et in eis contenta quecumque, ubi  
 et quando opus fuerit, ac quotiens, pro parte Jacobi, et pro tempore  
 existentis Scotorum Regis, nec non Presidentis et Senatorum Collegij  
 predictorum, seu alicujus eorum, fueritis requisiti; solemniter pub-  
 licantes, eisque in premissis efficacis defensionis presidio assistentes,  
 faciant auctoritate nostra literas et in eis contenta hujusmodi firmiter  
 observari, ac singulos quos ipse presentes litere concernunt, illis paci-  
 fice gaudere; non permittentes eos desuper per quoscunque, contra  
 earumdem

earumdem presentium tenorem quomodolibet molestari; contradictores quoilibet et rebelles per censuras et penas ecclesiasticas, ac etiam pecuniarias eorum arbitrio moderandas, et alia opportuna juris remedia appellatione postposita, compescendo; ac legitimis super his habendis servatis processibus, censuras et penas ipsas iteratis vicibus aggravando, invocato etiam ad hoc, si opus fuerit, auxilio brachij secularis, non obstantibus nostra, per quam dudum inter alia volui-  
mus, quod petentes beneficia ecclesiastica alijs uniri, tenerentur expri-  
mere verum annum valorem secundum extimationem predictam,  
etiam beneficij cui aliud uniri peteretur, alioquin unio non valeret,  
et semper in unionibus commissio fieret ad partes vocatis quorum in-  
teresset, ac Lateranensis Concilij novissime celebrati; necnon felicis re-  
cordationis Innocentij quarti que incipit *Volentes*, ac Bonifacij octavi  
pontificum predecessorum nostrorum, qua cavetur, ne quis extra suam  
civitatem vel diocesim, nisi in certis exceptis casibus, et in illis ultra unam  
dietam, a fine sue diocesis ad judicium evocetur; seu ne judices a sede pre-  
fata deputati, extra civitatem vel diocesim in quibus deputati fuerint, con-  
tra quoscunque procedere, aut alijs vel alijs vices suas committere, quo-  
quomodo presumant; et de duabus dietis in concilio generali edita, dum-  
modo ultra tres dietas aliquis auctoritate presentium non trahatur, ac  
quibusvis alijs constitutionibus et ordinationibus apostolicis; nec non  
ecclesiarum et monasteriorum ac prioratum, etiam in quibus benefi-  
cia nominanda hujusmodi forsan extiterint, ac illorum etiam Clunia-  
icensis Cisterciensis Premonstraten sis et Cartusiani ordinum, necnon hos-  
pitalis Sancti Johannis Hierosolimitani juramento, confirmatione  
apostolica, vel quavis firmitate alia roboratis, statutis et consuetudini-  
bus, stabilimentis, usibus et naturis, ac quibusvis privilegijs, exemp-  
tionibus, immunitatibus, conservatorijs, indultis et literis apostolicis  
illis in genere vel in specie, sub quibuscunque tenoribus et formis,  
ac cum quibusvis etiam derogatoriarum derogatorijs, alijsque effica-  
cioribus, et insolitis clausulis, nec non irritantibus et alijs decretis  
talibus, quod illis nullatenus, aut non nisi sub certis modo et forma,  
derogari possit, etiam motu proprio et ex certa scientia, ac quavis etiam  
regia consideratione, et ex quibusvis causis per quoscunque Romanos  
Pontifices predecessores nostros, ac per nos et sedem predictam,  
etiam iteratis vicibus concessis, approbatis et innovatis. Quibus  
omnibus, etiam si pro illorum sufficienti derogatione, de illis eorum-  
que totis tenoribus specialis, specifica, individua et expressa mentio ha-  
benda, aut aliqua alia exquisita forma ad hoc servanda foret, tenores  
hujusmodi, ac si de verbo ad verbum, nihil penitus omisso, et forma in  
illis tradita observata, inserti forent, presentibus pro sufficienter ex-  
pressis habentes, illis alias in suo robore permansuris, hac vice dum-  
taxat, specialiter et expresse derogamus, contrarijs quibuscunque, aut  
si quibusvis communiter vel divisim ab eadem sit sede indultum,  
quod interdici, suspendi vel excommunicari non possint, per literas  
apostolicas non facientes plenam et expressam, ac de verbo ad verbum,  
de indulto hujusmodi mentionem. Volumus autem, quod si aliquas  
parochiales ecclesias, vel alia beneficia curata, predicto Collegio in  
vim presentium uniri, annecli, et incorporari contingat, animarum cura  
parochialibus ecclesijs, seu alijs beneficijs sicut unitis, imminens per  
petuos

petuos vicarios, quibus sufficiens portio ad sustentationem, fructuum, reddituum, et proventuum parochialium ecclesiarum seu beneficiorum unitorum hujusmodi reservetur, omnino exerceatur et sustentetur. Et quia difficile foret presentes literas ad singula loca ubi opus fuerit deferre, apostolica auctoritate predicta decernimus, quod transumptis earumdem presentium manu notarij publici subscriptis, et sigillo aliquius persone in dignitate ecclesiastica constitute munitis, eadem prorsus fides in judicio et extra adhibeatur, que eisdem presentibus adhiberetur, si forent exhibite vel ostense. Nulli ergo omnino hominum liceat hanc paginam nostre approbationis, confirmationis, decreti, suppletionis, applicationis, appropriationis, unionis, annexionis, incorporationis, exemptionis, liberationis, susceptionis, inhibitionis, mandati, voluntatis et derogationis infringere, vel ei ausu temerario contraire. Si quis autem hoc attemptare presumpserit, indignationem omnipotentis Dei, ac beatorum Petri et Pauli apostolorum ejus, se noverit incursum. Datum Rome apud Sanctum Petrum, anno incarnationis dominice millesimo quingentesimo trigesimo quarto, sexto Idus Martij, Pontificatus nostri anno primo. POST quarum quidem literarum apostolicarum presentationem et receptionem nobis, et per nos, ut premittitur, factas, fuimus pro parte prefati serenissimi et illustrissimi Domini, Domini Jacobi Scotorum Regis, nec non modernorum Presidentis et Senatorum Collegij, de quibus in preinsertis literis apostolicis fit mentio, principalium in eisdem preinsertis literis apostolicis principaliter nominatorum debita cum instantia requisiti, quatinus ad executionem dictarum literarum apostolicarum et contentorum in eisdem procedere dignaremur, juxta traditam seu directam per eas a sede apostolica nobis formam: Nos igitur Hieronimus de Ghimitijs, Episcopus et auditor, judex et executor prefatus, attentes requisitionem hujusmodi fore justam et rationi consonam, volentesque mandatum apostolicum supradictum nobis in hac parte directum reverenter exequi, ut tenemur; idcirco auctoritate apostolica nobis commissa, et qua fungimur in hac parte, prefatas literas apostolicas et hunc nostrum processum, ac omnia et singula in eis contenta vobis omnibus et singulis supradictis, communiter vel divisim, intimamus, insinuamus, et notificamus, ac ad vestram et cujuslibet vestrum noticiam deducimus et deduci volumus per presentes. Et nichilominus vos reverendissimos ac reverendos patres, dominos archiepiscopos, etiam primates, et legatos natos, necnon episcopos, vicarios, officiales generales, ac subdelegatos, et commissarios ac abbates, priores, administratores, commendatarios et prelatos, omnesque alios et singulos supradictos, quibus presens noster processus dirigitur, tenore presentium requirimus et monemus, primo, secundo, tertio, et peremptorie, communiter vel divisim, ac vobis et vestrum cuiilibet in solidum, in virtute sancte obedientie, et sub infrascriptis sententiarum penis, districte precipiendo mandamus, quatinus infra sex dierum spacium post presentationem seu notificationem dictarum literarum apostolicarum, et presentis nostri processus, ac requisitionem vobis seu alteri vestrum factas; et postquam pro parte dicti illustrissimi et serenissimi Domini, Domini Jacobi et pro tempore existentis Scotorum

## APPENDIX.

Regis, necnon modernorum et pro tempore existentium Presidentis et Senatorum Collegij hujusmodi, vel cujuslibet eorum, super hoc vigore presentium fueritis requisiti seu alter vestrum fuerit requisitus, immediate sequentes; quorum sex dierum duos pro primo, duos pro secundo, et reliquos duos dies vobis universis et singulis supradictis pro omni dilatione terminoque peremptorio ac monitione canonica assignamus; penam etiam duorum millium ducatorum auri de camera, partim parti et partim camere apostolice applicandam, et totiens quotiens incurrendam et exigendam, sententijs supra et infra scriptis hujusmodi adjicientes, faciatis auctoritate nostra, ymmo verius apostolica, preinsertas literas apostolicas, nec non approbationem, confirmationem, decretum, supplicationem, applicationem, appropriationem, unionem, annexionem, incorporationem, exemptionem, liberationem, susceptionem, inhibitio-nem, mandatum, voluntatem et derogationem, omniaque alia et singula in dictis preinsertis literis, quomodolibet contenta firmiter observari; ac vos prout ad vos communiter vel divisim pertinet, firmiter et inviolabiliter perpetuis futuris temporibus observetis; necnon eosdem illustrissimum et serenissimum Dominum Jacobum et pro tempore Scotorum Regem, ac Collegij Presidentem et Senatores hujusmodi omnesque alios et singulos, quos dicte preinserte litere quomodolibet concernunt et concernent in futurum, eisdem literis, ac omnibus et singulis in eis contentis supradictis, pacifice et quiete frui et gaudere, quantum in vobis est vel fuerit, faciatis et permittatis: Inhibentes nichilominus vobis omnibus et singulis supradictis quibus presens noster processus dirigitur, et quibusvis alijs judicibus et personis ecclesiasticis et secularibus, cuiuscunque dignitatis, status, gradus, ordinis vel conditionis existant, sub infrascriptis sententiarum, et dictorum duorum millium ducatorum auri de Camera, ut prefertur applicandorum et exigendorum, penis hujusmodi, ne modernos et pro tempore existentes Scotorum Regem, ac Presidentem et Senatores Collegij hujusmodi, nec non quoscunque alios, quos dicte preinserte litere quomodolibet concernunt et concernent in futurum, contra dictarum preinsertarum literarum tenorem, per vos vel per se, aut alium seu alios, publice vel occulte, directe vel indirecte, quovis quesito colore vel ingenio, molestetis seu molestent, aut molestari permittatis vel faciatis, aut permittant vel faciant; sed in omnibus et per omnia, mandatis apostolicis atque nostris pareatis seu pareant, realiter et cum effectu: Quod si forte premissa omnia et singula non adimpleveritis, seu adimplerint, aut distuleritis seu distulerint contumaciter adimplere, mandatisque et monitionibus nostris hujusmodi, ymmo verius apostolicis, non parueritis, seu paruerint, realiter et cum effectu: Nos in vos omnes et singulos supradictos, qui culpabiles fueritis seu fuerint in premissis; et generaliter in contradictores quoilibet et rebelles, ac impedientes modernos, et protempore existentes Scotorum Regem ac Collegij hujusmodi Presidentem et Senatores supradictos, ac alios quos dicte preinserte litere quomodolibet concernunt, vel eorum aliquem super premissis, et in preinsertis literis contentis in aliquo, aut ipsos impedientibus dantes auxilium consilium vel favorem, publice vel occulte, directe vel indirecte, quovis quesito colore, cuiuscunque dignitatis, status,

status, gradus, ordinis vel conditionis existant, ex nunc prout ex tunc, et ex tunc prout ex nunc, singulariter in singulos, predicta sex dierum canonica monitione premissa excommunicationis; in capitula vero, conventus et collegia quecunque in his forsan delinquentia suspensions a divinis, et in ipsorum delinquentium et rebellium ecclesias, monasteria et capellas interdicti ecclesiastici, sententias ferimus in his scriptis, et etiam promulgamus; ac quemlibet ex impedientibus, molestantibus, delinquentibus et rebellibus supradictis, duorum milium ducatorum auri de Camera penam hujusmodi incurrisse et incurrire, illamque ab eis et eorum quolibet exigi, et ut prefertur posse applicari et debere, juris et facti remedij quibuscumque, eadem apostolica auctoritate, decernimus; vobis vero reverendissimis ac reverendis patribus, dominis archiepiscopis et episcopis prefatis duntaxat exceptis, quibus ob reverentiam vestiarum pontificalium dignitatum deferimus in hac parte, si contra premissa vel eorum aliquod feceritis, seu fieri mandaveritis, per vos vel submissas personas, publice vel occulte, directe vel indirecte, quovis quesito colore, ex tunc prout ex nunc, predicta sex dierum canonica monitione premissa, ingressus ecclesiarum interdicimus in his scriptis. Si vero hujusmodi interdictum per alios sex dies prefatos sex immediate sequentes sustinueritis, vos in eisdem scriptis, simili canonica monitione premissa, suspendimus a divinis. Verum si prefatas interdicti et suspensionis sententias per alios sex dies prefatos duodecim immediate sequentes, animis, quod absit, sustinueritis induratis; vos ex nunc prout ex tunc, et e converso, hujusmodi canonica monitione premissa, in his scriptis excommunicationis sententia, auctoritate apostolica supradicta innodamus, ac penam duorum milium ducatorum supradictam incurrire et incurrisse similiter declaramus. Ceterum cum ad executionem premissorum, et per preinsertas literas nobis commissorum ulterius faciendam nequeamus quoad presens personaliter interesse, pluribus alijs arduis in Romana Curia legitimate prepediti negotijs; universis et singulis dominis, abbatibus, prioribus, prepositis, decanis, archidiaconis, cantoribus, thesaurarijs, scolaisticis, sacristis, custodibus tam cathedralium etiam metropolitanarum quam collegiatarum ecclesiarum, canonicis, parochialiumque ecclesiarum rectoribus, seu locatenentibus eorumdem, plebanis, viceplebanis, archipresbyteris, vicarijs perpetuis, capellanis, curatis, altaristis, presbyteris, ceterisque viris ecclesiasticis, cum cura et sine cura, secularibus, et quorumvis ordinum regularibus, in quibuscumque dignitatibus, gradibus vel officijs constitutis, ac notarijs et tabellionibus publicis quibuscumque, per universum Scotie regnum ac alias ubilibet constitutis, et eorum quemlibet in solidum, super ulteriori executione dicti mandati apostolici atque nostri facienda, auctoritate apostolica supradicta tenore presentium plenarie committimus vices nostras, donec eas ad nos specialiter et expresse duxerimus revocandas: Quos nos etiam et eorum quemlibet in solidum eisdem auctoritate et tenore requirimus et monemus, primo, secundo, tertio, et peremptorie, communiter vel divisim, eisque nichilominus, et eorum cuilibet, in virtute sancte obedientie, et sub excommunicationis pena, quam in eos et eorum quemlibet, nisi fecerint que mandavimus, fermus.

## APPENDIX.

rimus, in hijs scriptis districte precipiendo mandantes, quatinus infra sex dies post presentationem seu notificationem presentium, ac requisitionem pro parte prefati illustrissimi Domini, Domini Jacobi, et pro tempore existentis Scotorum Regis, ac modernorum et pro tempore existentium presidentis et senatorum Collegij hujusmodi, aut alicujus eorum, eis seu eorum alteri desuper factas, immediate sequentes; quos dies ipsis et eorum cuilibet pro omni dilatione terminoque peremptorio ac monitione canonica assignamus; ita tamen quod in his exsequendis alter eorum alterum non expectet, nec unus pro alio, seu per alium se excuset: Ad vos omnes et singulos supradictos, personae que et loca alia de quibus, ubi, quando, et quotiens opus fuerit personaliter accedant seu accedat, et prefatas literas apostolicas ac omnia et singula in eis contenta vobis omnibus et singulis supradictis communiter vel divisim legant, intiment, insinuent, et fideliter publicare procurent, seu legat, intimet, insinuet, et fideliter publicare procuret; ac illustrissimo Domino Jacobo, et pro tempore existenti Scotorum Regi, necnon modernis et pro tempore existentibus dicti Collegij presidente et senatoribus supradictis, super premissis et in preinfertis literis contentis, efficacis defensionis presidio assistentes, easdem preinfertas literas, et in eis contenta omnia et singula, quantum in eis est vel fuerit, firmiter observari; ac singulos quos dicte preinferte litere quomodolibet concernunt, illis pacifice et quiete frui et gaudere faciant: Non permittentes eos per quoscunque, contra earumdem literarum tenorem quomodolibet molestari, inquietari, seu perturbari; contradictores quoilibet et rebelles per censuras et penas ecclesiasticas, ac etiam pecuniarias, eorum arbitrio moderandas, et alia opportuna juris remedia, appellatione postposita compescendo; ac legitimis super his habendis servatis processibus, censuras et penas ipsas iteratis vicibus aggravando; invocato etiam ad hoc, si opus fuerit, auxilio brachij secularis. Et nichilominus, si forsan aliqui, quos supradictum tangit negotium seu tangere poterit quomodolibet in futurum, mandatis et monitionibus ac inhibitionibus nostris hujusmodi parere et obedire recusarent, seu different, vel negligenter contumaciter adimplere; ex tunc prefatum serenissimum et illustrissimum Dominum, Dominum Jacobum, et pro tempore existentem Scotorum Regem, ceterosque principes et nobiles quoscunque in toto Scotie regno, et alias ubilibet, jurisdictionem temporalem et ordinariam quomodolibet exercentes, eorumque locatenentes et ipsorum quemlibet, tanquam religionis et fidei christiane participes, et etiam defensores, ex parte domini nostri pape requirimus, et ex nostra auctoritate rogamus; quatinus ipsi et eorum quilibet, si et prout requisiti fuerint, seu alter eorum fuerit requisitus, pro parte dictorum dominorum modernorum et pro tempore existentium presidentis et senatorum Collegij hujusmodi, vel alicujus eorum, per se vel alium seu alios, ut veri catholici, sui in hac parte officij dexteram extendentes, infra sex dies post presentationem seu notificationem predictarum literarum apostolicarum, et requisitionem eis seu eorum alteri ut premittitur factas, immediate sequentes,

tes, quoscunque in premissis contradictores et rebelles ac eorum quemlibet, prout culpabiles fuerint, qui sic judicium et censuram ecclesiasticam contempserint, per captionem et detentionem bonorum suorum mobilium et immobilia, in ipsorum jurisdictione consistentium, primo ; et deinde per ipsorum captionem, et quoscunque alium modum canonicum, qui eisdem dominis temporalibus et ipsorum officiariis videbitur expedire, auctoritate nostra, ymmo verius apostolica, compellant videlicet manu forti, absque tamen gravi lesione corporum eorumdem, usque ad integrum partitionem omnium et singulorum in preinsertis literis et presenti nostro processu contentorum ; et alias ipsos inobedientes et rebelles et eorum quemlibet astrigant ipsorum potentia brachij secularis, donec ad obedientiam sancte matris ecclesie devenerint, et processibus nostris antedictis paruerint, beneficium quoque absolutionis a predictis sententijs censuris et penis meruerint obtinere. Et generaliter, dicti subdelegati nostri omnia et singula nobis in hac parte commissa plenarie exequantur, juxta predictarum literarum apostolicarum et presentis nostri processus vim, formam et tenorem : Ita tamen quod ipsi, vel quicunque alias seu alij, nichil in prejudicium dictorum illustrissimi Domini Jacobi et pro tempore existentis Scotorum Regis, ac presidentis et senatorum collegij hujusmodi valeant attemptare quomodolibet in premissis, neque in processibus per nos habitis, aut sententijs per nos latis, absolvendo vel suspendendo aliquid immutare. In ceteris autem que eisdem pro tempore existentibus Scotorum Regi, ac presidenti et senatoribus predictis, vel eorum alteri in premissis nocere possent, vel quomodolibet obesse, prefatis subdelegatis nostris, et quibuscunque alijs potestatem omnimodam denegamus. Et si contingat nos super premissis in aliquo procedere, de quo nobis potestatem omnimodam reservamus, non intendimus propterea commissionem nostram hujusmodi in aliquo revocare, nisi de revocatione ipsa expressam in literis fecerimus mentionem. Per processum autem nostrum hujusmodi, nolumus nec intendimus nostris in aliquo prejudicare collegis, quo minus ipsi vel eorum alter, servato tamen hoc nostro processu in hujusmodi negotio, procedere valeant, prout eis vel eorum alteri visum fuerit expedire ; prefatasque literas apostolicas, et hunc nostrum processum, ac omnia et singula hujusmodi negotium tangentia, volumus penes dictos pro tempore existentes Scotorum Reges, ac presidentem et senatores, vel eorum procuratores remanere ; et non per vos aut aliquem vestrum, seu quoscunque alium, ipsis invitis, et contra eorum voluntatem quomodolibet detineri : Contrarium vero facientes prefatis nostris sententijs, prout in his scriptis per nos late sunt, ipso facto volumus subjacere : Mandamus tamen copiam fieri de premissis eam petentibus et habere debentibus, petentium quidem sumptibus et expensis. Absolutionem vero omnium et singulorum, qui prefatas nostras sententias aut earum aliquam incurrerint seu incurrerit quoquomodo, nobis vel superiori nostro tantummodo reservamus. In quorum omnium et singulorum fidem et testimonium premissorum, presentes literas sive presens publicum processus instrumentum exinde fieri et per

## APPENDIX.

notarium publicum Archivij Romane curie scriptorem infrascriptum subscribi mandavimus, sigilliique dicti Archivij jussimus et fecimus ap- pensione communiri. Datum et actum Rome in edibus nostre solite re- fidentie, anno a nativitate Domini millesimo quingentesimo trigesimo quinto, indictione octava, die vero ultima mensis martij ; Pontificatus sanctissimi in Christo patris et domini nostri, Domini Pauli, divina providentia Pape tertij, anno primo ; presentibus ibidem discretis viris, Dominis Martino Jordan et Roderico Urrunno, Notarijs Der- tusensis et Calagurritane Doicesium, testibus ad premissa vocatis atque rogatis.

Et ego Didacus de Avila, Archivij Romane curie scriptor, quia pre- missis omnibus presens fui, ideo hoc publicum processus instru- mentum subscripti et publicavi, rogatus et requisitus.

F I N I S.

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MUNDELL, DOIG, AND STEVENSON,  
PRINTERS, EDINBURGH.

## I N D E X.

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### *Advocates.*

Number fixed, 27th May 1582, § 23.

Oath to be taken by them, § 24.

To enter and remove with parties, § 25.

Manner of postponing dilatoryes, § 26, and not to plead within the bar.

Protest by an advocate who was ordered to appear against the king, 22d November 1587.

Letter from the king concerning the privilege of advocates, 19th February 1587.

Appointment of nine advocates, 1st March 1548.

Procuring of advocates—Litigants to ‘mak sufficient diligence to get ane ‘ procurator to procure and defend in thare causis before the day or dais ‘ appunced’ in any cause, 17th January 1553.

Chusing of advocates, 1555, p. 60.

Articles proposed by the advocates, and approven of by the Court, for the correction of abuses, 17th November 1610, viz.

Trial of advocates.

Marking appearance by them.

Place set apart for them and their clerks.

No solicitation for calling of causes.

Roll of causes to be affixed on the wall.

Order of calling causes in the Outerhouse.

Minutes.

Four ordinaries for bills and witnesses.

Admission of advocates, 12th February 1619.

### *Advocate—his Majesty's.*

Order for admitting his Majesty's advocate to be present at advising causes, 20th January 1588.

King's advocate declined as a judge in actions at his instance, 4th February 1546.

### *Arrestment.*

Pensions, fees, monthly wages, or other sums, directed to be paid to any, by precept from his Majesty, declared not to be arrestable, 11th June 1619.

D d

Against

Against arrestment of pensions, 30th November 1626;  
Bankrupt, see D'yvour—see Insolvent.

*Bench.*

Form of Bench, 27th May 1532, § 6.

*Bills.*

Anentis delivering of Billis, 1555, p. 57.

*Borderers.*

Induciae to borderers, 8th July 1533.

*Bulls.*

Production of Pope's bulls, 18th March 1535.  
----- 28d February 1537.

And see Appendix.

*Cautioner.*

Order from the king to delay proceeding against certain sureties, 8th February 1537.

For relief of distressed cautioners, 1st February 1610.

Caution in suspension shall not only be taken for obedience of the charge, but for expences, to be modified by the Lords, 23d November 1613.

*Cautioner judicio sisti.*

In debts exceeding 100 merks, cautioners shall not be received by officers of royal burrows, but shall enact themselves in the town-court books. The person applying to arrest any party, shall enact himself, and if not responsible, a good cautioner with him, for all cost or damage the party arrested shall sustain by wrongous arrestments, &c. In all other matters within 100 merks, for which any shall be arrested, the old custom of burrow of the town officers receiving caution shall not be altered, 18th December 1613.

*Charge.*

All decrees, "whereupon letters of four forms have been accustomed to be direct, letters of horning upon a simple charge shall hereafter be directed upon 15 days besouth the Dee, and 21 days benorth the same," 23d November 1613.

*Clerk Register.*

Mr. James Foulis admitted to the office of Clerk of Registrie, Rollis, and of Counsale, and at same time chosen one of the Lords of Session, 27th May 1532.

*Clerk Register.*

Protest by Clerk Register on being commanded by the Lords to subscribe the act of Parliament for the observation of the privilege of Halikirk, and to deliver the same to the legate, 17th June 1532.

Admission and oath of Mr. Thomas Marjoribanks, 8th February 1548.

*Clerks of the Signet.*

Clerks of the signet, 27th May 1532, § 18.

Their fees, § 19.

All signatures to be formed and marked by them only, ulto. July 1618.

Clerks of the Court, 27th May 1532, § 20.

*Clerks*

*Clerks of Session.*

Messrs. Alexander Gibson, Alexander Hay, and James Scott, admitted conjunct with Messrs. Alexander Gibson, elder, John Hay, and Sir William Scott, during all the days of the longest liver, 28th and penult. June and 3d July 1621, respective.

The Lords "ordained that they would admit no mae clerks of Session but " thrie," 3d July 1621.

*Clerks of City of Edinburgh.*

First prothocals delivered to the town-clerks of Edinburgh at their admission to the office of notary only to be marked.

Not obliged to insert all instruments in their prothocals as other notaries do, 23d March 1622.

*College of Justice.*

See *Bulls*, see *Session*.

*Competency.*

Competency of Court sustained in a question with kirkmen, 16th December 1546, 17th December 1546.

Court competent to reduce an infestment ratified by the parliament, 9th July 1546.

*Comprisings.*

All comprisings, not followed by charter and sasine, or clothed with real possession, declared null, unless 15 free days intervene between the day of denunciation and the comprising, 27th June 1623.

*Compromise.*

Concerning a proposed compromise, 6th February 1533.

*Consignation.*

See 23d November 1618.

*Contribution.*

Letter concerning the contribution by the prelates to the king, 17th June 1532. Factor appointed to collect the contribution due to the judges by the prelates, 3d September 1546.

Contribution to be paid to the Senators of the College of Justice, "aftir the " rait of thair residence be quotidiane distribucion, conforme to the bull " of ereccione," 24th February 1548.

Submission relative to the contribution, 1st February 1549.

Decreet-arbitral following thereon, 4th February 1549.

*Convention of the Lords.*

Tymes of conventionis of the Lords in the Counsal-house during the session —and after every vacance, 1555, p. 56.

*Counsal-hous.*

Ordoure of Counsal-hous, 1555, p. 58, viz.

" For delyvering off partiis with writings to the President or Chancellare.

" Annent delivering off billis outwith the Sessionne, and vtherwyse.

" For summonding and warning off witnesses.

" For chusing of advocattis."

*Courts.*

Justice Courts for alleged oppression or crimes, not to be held "without de-  
" sire of the theauner, with avise of the Lordis of Counsale in that be-  
" half," 16th November 1537.

" Allowance by the king, with avise of the Lords of Counsale, to hold courts  
" notwithstanding of the sitting of Parliament," 20th February 1588.

*Decrees.*

Execution of decrees, 27th May 1532, § 17.  
----- 23d November 1613.

*Declinature.*

4th February 1546.

*Dilatories, &c.*

27th May 1532, § 26.

*Dispensations.*

23d February 1539.

11th March 1539.

*Dyvour.*

No action of dyvours, craving to be put at liberty, be decerned in the Utter-  
house but in the Innerhouse, penult. July 1628.

*Heir-apparent.*

Apparent heir may be charged to enter to his predecessor within year and  
day, but no summons or action upon the said charge can proceed till year  
and day expire, 18th June 1613.

*Horning.*

Letters of horning presented to the clerk-register's deputies, sheriff-clerks,  
clerks of bailiaries, stewartries, and regalities, shall be marked as register-  
ed in their books, under pain of deprivation, 9th January 1613.

*Induciae.*

See borderers, 8th July 1538.

*Infeftment.*

9th July 1546.

27th March 1619.

*Inferior Judges.*

See 27th May 1532, § 5.

*Insolvent persons.*

Alienations to conjunct and confident persons, null and void, 13th July 1620.

*Interim Sheriffs.*

Interim sheriffs-depute of Air appointed by the Lords, 29th November 1535.

*Judges Spiritual.*

Protest against inhibition by Judges Spiritual, 14th February 1588.

Spiritual Lords to remain for administration of Justice, 27th March 1546.

*Judicio sisti.*

See 18th December 1613.

*Jurisdiction.*

Court of Session competent in matters spiritual, see 17th December 1546.

*Justice Courts.*

See cautioner.

*Justiciar.*

Objection to the Lord Justiciar's acting as a judge in a particular case before the Court, 17th November 1583; see 25th February 1583, p. 18.

*Kirk lands.*

All questions arising betwixt parties anent the rights of kirk lands and livings pertaining to kirkmen, to be decided by their decision of the same, by the space of 40, at least 30 years preceding the intenting of their actions, or proponing defences, 16th November 1612.

*Kirkmen.*

See competency, 16th December 1546.

*Legittimation.*

See 21st February 1583, p. 15.

*Letters from the King to the Lords.*

Respecting the contributions by the prelates to the King, 17th June 1582.

Revocation of grants in minority, 20th November 1582.

Requiring, "that nane of the Lords depart fra our burgh quhill oure cum-ing thereto for thair avise and counsale, to be hade in sic thingis we have concerning the commounweil of our realme," 19th March 1582.

Supersedere of legal proceedings in favour of the Earl of Rothes, Lord Fleming, and his Majesty's advocate, until their return from England, 5th December 1583.

The same to his Majesty's advocate, and others in his suite, 20th January 1583.

Concerning the delay of a cause, 12th February 1583.

Ordinances concerning slaughter, legittimation, &c. 21st February 1583.

Respite to the Bishop of Aberdeen and his suite during his embassy in England, 25th February 1583.

Concerning a cause before the Justiciar's Court, 25th February 1583.

Against respites in cases of recent slaughter, 25th February 1583.

Against respites obtained by obreption, 25th February 1583.

Respite to Sir Thomas Erskine and his suite during his embassy to France, 26th February 1583.

Concerning subscription to gifts of the King's casualties, 6th March 1583.

Concerning the Lutheran religion, 8th May 1584.

Appointment of advocates for the poor, 2d March 1584.

Order in a cause at the King's instance against the Earl of Crawford, 24th July 1585.

Quorum of the judges, 21st January 1585.

Sinister purchasing of letters, 21st January 1585, p. 26.

Against soliciting of private writings in hinderance of justice, 4th July 1586.

Order to proceed in a cause, 8th July 1586.

Supersedere to Robert Bertoun, 28th July 1586.

Concerning the prelates, 21st January 1587.

- To delay proceeding against sureties, 8th February 1537.  
 Privilege of advocates, 19th February 1537.  
 Order concerning a cause, 23d February 1537.  
 Order to admit Mr. William Lamb to hear and understand the practic, 25th February 1537.  
 Supersedere in favour of Sir John Campbell of Lundy, and order of the Court thereon, 21st March 1537.  
 Order by the King concerning a cause, 27th May 1538.  
 Concerning the King's processes, 31st July 1538.  
 Concerning a cause, 20th December 1538.  
 Supersedere to Gordon of Lochinver, 20th December 1538.  
 For admitting his Majesty's advocate to be present at advising causes, 20th January 1538.  
 Dispensation to Mr. Henry Quhite (on account of his age and long services) from regular attendance on the Session, "bot at his awin plessour;" and in consideration of "his leill, trewe, and gude service, done in tymes bygane, "that he joiss all privilege in persoune and guedes, and pencionie, as ony of our Counsale and Cessioune broukis, or is to brouk, during his lifetime," 28d February 1539.  
 Order for making a new signet in place of one which was stolen, 11th March 1539.  
 Dispensation with the attendance of one of the judges, 11th March 1539.  
 Letter of supersedere in favour of Sir William Scott, 16th July 1540.  
 Same to Cardinal Bethune, 15th July 1541.  
 Directions to the Court to proceed in a cause, 30th July 1541.  
 Supersedere, 26th January 1541.  
 Letter concerning a cause, 1st March 1541.  
 Prescribing a certain mode of proceeding in a cause, 14th March 1541.  
 Letter from the Lord Governour about a cause, 19th July 1548.  
 From the same, to stop proceeding on a bill of summons, without the summons, 6th March 1545.  
 Anent the qualifications of Lords to be admitted in tyme coming, 31st May 1605.  
 Concerning his Majesty's revocation, 31st January 1627.  
 Change of extraordinary Lords, 18th June 1628.  
 In favour of the College of Justice, 15th July 1628.

*Lords of Session.*

- Nomination of Lords in place of those dead or absent, 16th November 1532.  
 Lords not to be called out with the King's forces, 13th February 1532.  
 Their exemption from taxations, 4th March 1532.  
 Message to them from the King, 19th March 1532.  
 Order to them to call a parliament in obedience to the King's writ, 13th June 1533.  
 Nomination of Lords of Session, 21st January 1534.  
 Mr. Abraham Crichton added to the number of the Lords, 17th February 1547.  
 Six Prelates and Lords adjoined to the Court in a certain cause, 30th March 1549.  
 Same, 2d April.  
 Four Privy Counsellors adjoined in another cause, 30th March 1549.  
 King's letter anent qualifications of Lords, and procedure thereon, 31st May 1605.  
 Sir Andrew Hamilton admitted a Lord of Session, *ad vitam*, upon trial with two others, 18th June 1608

Same

Same, Sir Alexander Drummond, 22d December 1608.  
 Same, Sir William Livingstone, 6th June 1609.  
 Same, Sir Alexander Hay, 30th January 1610.  
 Mr. William Oliphant admitted upon the King's recommendation, *ad vitam*, 16th January 1611.  
 Sir Gideon Murray admitted on the King's presentation without trial, " because of the certane knowledge the Lords had of his qualification," 2d November 1613.  
 " No Lord of Session, ordinar or extraordinar, sould brouk nor possesse the office of ane inferior judicatory," 29d February 1620.  
 Directions from his Majesty for ordering the Session, 10th November 1626.  
 New admission of certain Lords, 14th February 1626.

*Lords Extraordinary.*

Occasional appointment of six extraordinary Lords, 31st July 1546.  
 Complaint of the number of supernumerary Lords, 1555, p. 55.  
 Mr. Patrick Rollock re-admitted as an extraordinary Lord, 16th May 1610.  
 " The King's Majesty be his letter promised, that since Lord Blantyre wes dead, who wes the fifth extraordinary Lord, there sould remane but only four thereafter," 28th March 1617.  
 Change of extraordinary Lords, in consequence of a letter from the King, 18th June 1628.

*Lords adjoined.*

Six Lords and Prelates adjoined in a particular cause, 30th March and 2d April 1549.  
 Four Privy Counsellors adjoined in a cause, 30th March 1549.

*Lords Spiritual.*

See 14th February 1538.  
 —— 27th March 1546.  
 —— 30th March 1549.

*Macer.*

See 27th May 1532, § 21, 22.

*Oath of Verity.*

Party shall, at the diet assigned to him, declare judicially any condition he intends to adject to his oath; which if he omit to declare in judgment before he depone, no respect shall be had to any such condition adjected. And if any such judicial declaration be made by the party to be sworn, that he intends to adject any such condition to his oath, it shall be lawful to the party referring, to resile from that manner of probation, 7th December 1613.

*Obreption.*

See 25th February 1538, p. 19.

*Outerhouse.*

Mr. Robert Stuart, burgess of Glasgow, " wes, for his misbehaviour in the Utterhouse, acted that during his lifetyme he sould not enter in the Innerhouse, under the pain of 300 merks *totes quoties*," 22d February 1609.

*Parliament.*

See 13th June 1538.

See 16th November 1587.  
 — 20th February 1588.  
 — 9th July 1546.

*Pensions.*

**Pensions, fees, &c. from his Majesty, not arrestable, 11th June 1613.**  
**— ultimo. November 1626.**

*Poor.*

See 2d March 1584, 27th April 1585.

*Prelates.*

Their causes privileged, 21st January 1587.

*President of the Session.*

Mr. John Preston chosen during his lifetime, 6th June 1609.

*Principality of Scotland.*

All writs to be past under Prince Charles's own name and seal, 8th June 1620.

*Privilege.*

Privilege of advocates, 19th February 1587.

Order to admit Mr. William Lamb to hear and understand the practic, 25th February 1587.

Privilege to Earl of Dunbar to see and hear matters decided in the Session, 4th December 1610.

*Privy Seal.*

Registration of privy seal writs, 11th February 1617.

*Process.*

Order as to King's processes, 13th June 1582.

— 24th July 1585.

— 31st July 1588.

Letter from the King prescribing mode of proceeding in a cause, 14th March 1541.

Same from Lord Governour, 19th July 1543.

*Protest.*

Protest against inhibitions by judges spiritual, 14th February 1588.

*Quorum of Lords.*

27th May 1582, § 15.

21st January 1585.

*Ratification.*

Ratification by the King of the statutes of the Session, 10th June 1582.

*Religion—Lutheran.*

Act against it, 8th May 1584.

*Reference,*

*Reference.*

Reference of a cause to the King, 12th August 1536.

*Registration.*

Registration of hornings, 9th January 1613.

Privy Seal writs, 11th February 1617.

*Respite and Supersedere.*

See letters from the King to the Lords.

*Rolls.*

See 27th May 1532, § 3, 12.

— 16th June 1538,—27th April 1535,—1555, p. 56.

*Seisin.*

See 9th July 1546.

Authority of the Court interposed to a seisin in favour of Prince Charles,  
27th March 1619.

*Session.*

First meeting of the Session under the act of institution, 27th May 1582.

Oath of the Lords *de fidei*.

Power of the Court to make rules.

Mr. James Foulis admitted Clerk of Registrie, &c. and also one of the Lords  
of Session.

*Statutes of the Session.*

1. Division of the kingdom into quarters.
2. Privileged summons.
3. Order of the roll.
4. Continuation of process.
5. Direction to inferior judges.
6. Form of Bench.
7. Hour of meeting.
8. Shut doors.
9. No man to plead except the parties and their procurators.
10. Order of proceeding.
11. Ordinaries to examine witnesses.
12. Order of the table to be observed.
13. Manner of delivering opinions.
14. —— of voting.
15. Quorum.
16. Publication of evidence.
17. Execution of decrees.
18. Clerks of the signet.
19. —— their fees.
20. Clerks of Court.
21. Duty of macers.
22. Their fees.
23. Number of advocates.
24. Oath to be taken by them.
25. To enter and remove with the parties.
26. Manner of proponing dilators, &c.

King's ratification, 10th June 1532.

Act of Council in favour of the Session, 7th March 1548.

Letter from the King in favour of the College of Justice, 15th July 1628.

*Signatures to be made by Writers to the Signet.*

See *ultimo*. July 1618.

*Signet.*

Order for making a new signet in place of one which was stolen, 11th March 1539.

*Slaughter.*

Ordinances by the King concerning it, 21st February 1533, p. 15.

*Solicitation.*

Prohibited, 4th July 1536, 2d May 1554.

*Spuilezie.*

Summons of recent spuilezie to be called weekly on Tuesdays, 16th June 1533.

*Supersedere and Respite.*

See letters from the King to the Lords.

*Surcease of Justice.*

Surcease of justice during war, 19th June 1548.

*Suspensions.*

Against suspension of diligence upon decrees, 30th August 1546.

All suspensions shoulde contain the names of the Lords who past the bill, 31st July 1612.

Protestation in suspensions, 23d November 1613.

Caution in suspensions, see 23d November 1613.

No eiked reason of suspension to be received, except delivered with the rest of the pieces at the first calling for seeing the pieces at the bar.

No eiked reason to be admitted after sight of the pieces, *ultimo*. July 1618.

Suspension of diligence obtained by the magistrates of Edinburgh against the creditors of a sick person removed from the tolbooth by order of the Lords of Secret Council, 6th December 1622.

*Table.*

See rolls.

*War.*

See surcease.

*Witness.*

27th May 1532, § 11.

7th July 1533, and 1555, p. 58.

*Vacation.*

Administration of justice in vacation time, 31st July 1532.

"Convention of the Lords eftir everie vacation," 1555, p. 57.

Yule vacation fixed, *ultimo*. November 1609.

## ERRATA.

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### IN PREFACE.

P. 17, line 10 from bottom, after "or," leave out "of."

### IN THE WORK.

P. 8, margin, at the bottom, for "renovation," read "revocation."

P. 42, margin of last art. for "of supersedere," read "concerning a cause."

P. 45, line 26, after "absolutionis," add an asterisk\*, and at the bottom of the page a note, \* "See act of Parliament 1584, c. 139."

P. 47, margin, near the bottom, for "increase," read "surcease."

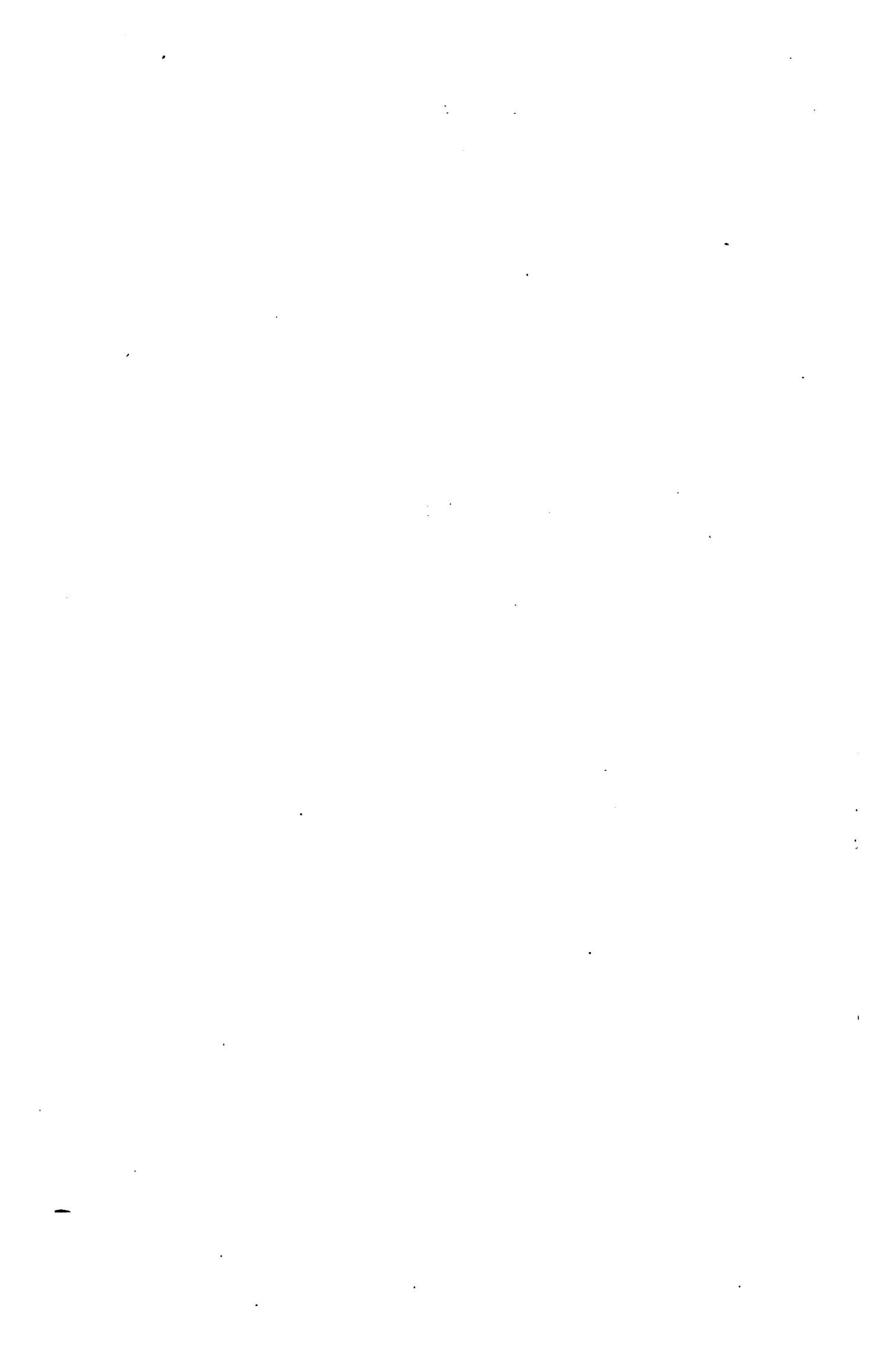
P. 55, note, after the word "following," put in "six."

P. 58, note, after the word "following," put in "five."

P. 59, 2d paragraph, margin, after "partiis," leave out "with."

P. 75, line 2, there is some inaccuracy here in the MS. probably "erected," should be "selected from."

P. 76, line 6, after diligence add an asterisk\*, and in a note at bottom say, " \* See act of Parliament 1621, c. 18."







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